

THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 25, 2017

Senate called to order at 1:25 p.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Don Baumann.

Gracious God, as the 79th Session of the Nevada Legislature heads into its final days, we would ask for strength and endurance for each Senator and all those who serve in this chamber. In the midst of the joys and disappointments along the way, may each take comfort in the knowledge that You are the righteous, accurate Judge of their accomplishments.

I ask that the lasting legacy of each Senator be in their relationships with others here as well as in the statutes that are passed. Despite the intensity of negotiation, may the friendships forged, especially those that cross party lines, endure beyond the final gavel, beyond even their tenures here, so that much good and blessing may continue between those who serve here now in the years ahead.

We ask this in the Name of the Just Judge of All, the Lord Jesus.

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 was referred Assembly Bill No. 431, 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 Finance, to which were re-referred Senate Bills Nos. 137, 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 458, 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**Mr. President:*

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 321, 415, 461, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair**Mr. President:*

Your Committee on Judiciary, to which were referred Senate Bill No. 541; Assembly Bills Nos. 150, 470, 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 Senate Parliamentary Rules and Procedures has approved the consideration of: Amendment No. 939 to Assembly Bill No. 286.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 322, 471, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation, to which was referred Assembly Bill No. 234, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PATRICIA FARLEY, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 24, 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. 26, 79, 136, 227, 388, 411, 509, 519, 525, 526; Assembly Bill No. 492.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 106, 175, 303, 327, 343, 366, 402, 428.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 47, Amendment No. 832; Senate Bill No. 125, Amendment No. 793; Senate Bill No. 185, Amendment No. 727; Senate Bill No. 209, Amendments Nos. 756, 757; Senate Bill No. 239, Amendment No. 791; Senate Bill No. 253, Amendment No. 800; Senate Bill No. 370, Amendment No. 837; Senate Bill No. 371, Amendment No. 838; Senate Bill No. 383, Amendment No. 813; Senate Bill No. 413, Amendment No. 839; Senate Bill No. 420, Amendment No. 747, and respectfully requests your honorable body to concur in said amendments.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Farley moved that Assembly Bill No. 485 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Ford moved that Assembly Bill No. 403 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Ford moved that Senate Joint Resolution No. 6 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Ford moved that Assembly Bill No. 408 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Ford moved that Assembly Bill No. 249 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Ford moved that Assembly Bill No. 294 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Ford moved that Assembly Bill No. 25 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Atkinson moved that Assembly Bill No. 276 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 106.

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

Motion carried.

Assembly Bill No. 175.

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

Motion carried.

Assembly Bill No. 303.

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

Motion carried.

Assembly Bill No. 327.

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

Motion carried.

Assembly Bill No. 343.

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

Motion carried.

Assembly Bill No. 366.

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

Motion carried.

Assembly Bill No. 402.

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

Motion carried.

Assembly Bill No. 428.

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

Motion carried.

Assembly Bill No. 492.

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

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 77.

Bill read third time.

Remarks by Senator Woodhouse.

Assembly Bill No. 77 revises various provisions concerning the licensure of teachers and other educational personnel to improve the safety of students, streamline administrative processes and improve teacher recruitment and retention. The bill also modifies the membership and duties of the Commission on Professional Standards in Education.

Specifically, Assembly Bill No. 77 provides that a teacher who has an endorsement to teach English as a second language qualifies to serve on the English Mastery Council in a certain capacity. It requires the reporting and tracking of criminal cases that involve unlicensed teachers and administrators who are employed by a charter school. It requires a charter school to terminate the employment of an unlicensed teacher or administrator upon conviction of a felony or crime involving moral turpitude or certain sex offenses. It allows Nevada's Department of Education (NDE) to charge a fee of \$50 to review and provide feedback on certain information related to a person's qualifications for an educational license before the person applies for such a license. Additionally, it adds requirements for how certain teachers must demonstrate proficiency in a field of specialization or area of concentration. It revises provisions related to certain licensure examinations and credential requirements for teachers and educational personnel from another state who obtain a reciprocal license. It establishes a license to teach students in a program of early childhood education. Requires, rather than allows, the adoption of regulations that provide for provisional licenses. Requires the Superintendent of Public Instruction to provide notice within 15 days of the denial of an application for licensure or license renewal to the school district or charter school that employs an applicant if the applicant is so employed. It raises from \$65 to \$100 the minimum fee for issuing or renewing an educational license, allows NDE to waive certain licensure fees for veterans, active-duty members of the military and spouses of military members. Requires school districts to include certain information regarding employee performance ratings in an annual report of information that is provided to NDE. It increases, from two to three, the number of years that a licensed teacher who does not hold an endorsement to teach in a subject area may teach in that subject area if there is a shortage of teachers, and allows such teachers to teach at any school regardless of its performance rating in that circumstance. Also, it provides that if the State Superintendent denies an application for renewal of a license, the relevant employee is not subject to certain statutory provisions regarding the period of time that must pass before he or she is suspended from employment.

For certain councils and commissions, the bill provides that a school district, charter school or entity that recommended certain members must pay the costs for employing a substitute teacher while a council or commission member who is a teacher attends a council or commission meeting. It also repeals a statute that requires a directory of certain educational personnel to be filed with each school district; requires the State Board of Education to adopt regulations regarding Statewide professional development standards, giving consideration to the recommendations made by the Advisory Task Force on Educator Professional Development. It requires all professional development provided to teachers, administrators and paraprofessionals to be aligned to the standards and be evidence-based as defined by federal law. It aggregates existing professional-development reports and requires school districts to submit annual reports on their

professional-development activity; makes various changes to the membership, terms, officers and appointment process for the Commission on Professional Standards in Education; and assigns to the Commission on Professional Standards in Education certain duties currently assigned to the State Board of Education.

Many of the recommendations in this bill came from the Advisory Task Force on Educator Professional Development that my colleagues from District No. 18 served on as well. I urge your support of this bill.

Roll call on Assembly Bill No. 77:

YEAS—18.

NAYS—Gustavson, Hardy—2.

EXCUSED—Kieckhefer.

Assembly Bill No. 77 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 80.

Bill read third time.

Remarks by Senators Parks and Gansert.

SENATOR PARKS:

Assembly Bill No. 80 authorizes, if adopted by ordinance, a city whose population is 220,000 or more located in a county whose population is 100,000 or more but less than 700,000, currently the City of Reno, to extend the date of termination of a redevelopment plan adopted before January 1, 1991, to the later of the retirement of the last maturing securities or 60 years after the date on which the original redevelopment plan was adopted, whichever is later. The adoption of an extension of a redevelopment plan has no effect on the allocation of revenues among taxing authorities within the redevelopment area.

The bill requires that the boundaries of a redevelopment area created after July 1, 2017, and the boundaries of an area added to a redevelopment area after July 1, 2017, follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city; and be regular in shape, except to the extent of physical or political boundaries.

Finally, the bill requires certain cities, if the city adopts an ordinance extending the date of termination of its redevelopment plan, to set aside a portion of the revenues from taxes imposed on property in certain redevelopment areas to be used to improve and preserve existing public educational facilities.

SENATOR GANSERT:

I have concerns about this bill being as the boundaries can be changed. I am also concerned about the extension of time to 60 years, so I will not be supporting the measure.

Roll call on Assembly Bill No. 80:

YEAS—14.

NAYS—Gansert, Gustavson, Hammond, Harris, Roberson, Settlemeyer—6.

EXCUSED—Kieckhefer.

Assembly Bill No. 80 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 110.

Bill read third time.

Remarks by Senator Hammond.

Assembly Bill No. 110 requires Nevada's Department of Education to establish a pilot program for competency-based education (CBE). A school that applies to and participates in the program must meet certain qualifications and must participate in the Competency-Based Education Network, which is created by the bill to consider CBE-related issues and make relevant reports. The bill further authorizes the Department of Education, through a competitive grants program and, to the extent funds are available, to distribute certain money to carry out the pilot program. The Department is also required to conduct a public-awareness campaign and hold certain meetings with school district superintendents regarding CBE.

Finally, Assembly Bill No. 110 allows a student to be granted credit for a course of study without having attended the regularly scheduled classes in the course if the student demonstrates proficiency through a portfolio, the performance of a designated task or other criteria prescribed by the State Board of Education.

Roll call on Assembly Bill No. 110:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 110 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 161.

Bill read third time.

Remarks by Senator Hardy.

Assembly Bill No. 161 requires any written rental agreement for a single-family residence that is not signed by an authorized agent of the landlord who at the time of signing holds a permit to engage in property management to include a disclosure advising the tenant that there is a rebuttable presumption that the tenant does not have lawful occupancy of the residence unless the agreement is notarized or is signed by an authorized agent of the landlord who at the time of signing holds a permit to engage in property management and includes the current address and telephone number of the landlord or his or her authorized representative; and the agreement is valid and enforceable without regard to whether it is notarized or is signed by an authorized agent of the landlord who at the time of signing holds a permit to engage in property management or includes the current address and telephone number of the landlord or his or her authorized representative.

The bill specifies that a person who forcibly enters or takes up residence in an uninhabited or vacant dwelling is presumed to know that entry into a home is without permission, unless the person provides a rental agreement that is notarized or is signed by an authorized agent of the owner who at the time of signing holds a permit to engage in property management and includes the current address and telephone number of the owner or authorized representative.

Roll call on Assembly Bill No. 161:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 161 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 205.

Bill read third time.

Remarks by Senator Hardy.

Assembly Bill No. 205 enacts provisions governing cremation using alkaline hydrolysis, which is defined as the reduction of human remains through the use of alkaline chemicals and agitation. The bill makes certain fee and penalty provisions applicable to this type of cremation. In cities and towns where existing zoning laws limit the location of a crematory, the bill authorizes a crematory using alkaline hydrolysis to apply to a local board of county commissioners or the governing body of the city or town for an exemption from zoning restrictions. The operator of a crematory must provide advance notice to the Division of Environmental Protection of the Department of Conservation and Natural Resources and any operator of a sanitary sewer in the area of its intent to use alkaline hydrolysis, and the Division must ensure that the equipment to be used complies with laws relating to water pollution. Finally, conforming changes are made to other sections of the law to account for differences between cremation by incineration and cremation by alkaline hydrolysis.

Roll call on Assembly Bill No. 205:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 205 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 286.

Bill read third time.

The following amendment was proposed by Senator Cannizzaro:

Amendment No. 939.

SUMMARY—Revises provisions relating to court programs for the treatment of veterans and members of the military. (BDR 14-872)

AN ACT relating to criminal procedure; revising provisions concerning the eligibility of a defendant for assignment to a program for the treatment of veterans and members of the military; authorizing a district court, justice court or municipal court to establish such a program; making various other changes relating to such a program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a district court to establish an appropriate program for the treatment of veterans and members of the military to which it may assign an eligible defendant. A justice court or municipal court is authorized, upon approval of the district court, to transfer original jurisdiction of a case involving such an eligible defendant to the district court. (NRS 176A.280, 176A.285) Section 3 of this bill additionally authorizes a justice court or municipal court to establish such a program and revises the provisions concerning the eligibility of a defendant for assignment to such a program. Section 3 also provides that the assignment of a defendant to such a program must be for a period of not less than 12 months.

Section 2 of this bill provides that a defendant is ineligible for assignment to such a program if he or she: (1) has previously been assigned to such a program; or (2) was discharged or released from the Armed Forces of the

United States, a reserve component thereof or the National Guard under dishonorable conditions. Section 2 also provides that a defendant who was discharged or released from the Armed Forces of the United States, a reserve component thereof or the National Guard under dishonorable conditions may be assigned to such a program if a court determines that extraordinary circumstances exist to warrant the assignment.

Existing law provides that upon violation of a term or condition of such a program, the court may: (1) enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged; and (2) order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison. (NRS 176A.290) Section 5 of this bill authorizes the imposition of certain sanctions against a defendant for such a violation.

Existing law provides that upon fulfillment of the terms and conditions of such a program, the court shall discharge the defendant and dismiss the proceedings. (NRS 176A.290) Section 5 provides that for defendants in the program who were charged with battery constituting domestic violence or driving under the influence, the court may conditionally dismiss the charges. Under section 6 of this bill, if the charges are conditionally dismissed, then not sooner than 7 years after such a conditional dismissal and upon the filing of a petition by the defendant, the court must order that all records relating to the charges be sealed.

Under existing law, before accepting a plea from a defendant or proceeding to trial, a justice of the peace or municipal judge must address the defendant personally and ask the defendant if he or she is a veteran or a member of the military. (NRS 4.374, 5.057) Sections 8 and 10 of this bill require that the justice of the peace or municipal judge must, as soon as possible after a defendant is arrested or cited, attempt to determine whether the defendant is a veteran or a member of the military and, if so, whether the defendant qualifies for a program for the treatment of veterans and members of the military.

Sections 11 and 12 of this bill provide that: (1) persons who are charged with first misdemeanor offenses of battery constituting domestic violence or driving under the influence are eligible to be assigned to a program for the treatment of veterans and members of the military; and (2) offenses that are conditionally dismissed in connection with successful completion of such a program or a diversionary or specialty court program constitute prior offenses for the purpose of determining whether the person is subject to an enhanced penalty with respect to a subsequent offense.

The remaining sections of this bill make conforming changes.

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

Section 1. NRS 176.015 is hereby amended to read as follows:

176.015 1. Sentence must be imposed without unreasonable delay. Pending sentence, the court may commit the defendant or continue or alter the bail.

2. Before imposing sentence, the court shall:

- (a) Afford counsel an opportunity to speak on behalf of the defendant; and
- (b) Address the defendant personally and ask the defendant if:

(1) The defendant wishes to make a statement in his or her own behalf and to present any information in mitigation of punishment; and

(2) The defendant is a veteran or a member of the military. If the defendant ~~is a veteran or a member of the military and~~ meets the qualifications of ~~paragraphs (b) and (c) of~~ subsection ~~2~~ 1 of NRS ~~176A.285,~~ 176A.280, the court may, if appropriate, assign the defendant to:

(I) A program of treatment established pursuant to NRS 176A.280; or

(II) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. After hearing any statements presented pursuant to subsection 2 and before imposing sentence, the court shall afford the victim an opportunity to:

- (a) Appear personally, by counsel or by personal representative; and
- (b) Reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution.

4. The prosecutor shall give reasonable notice of the hearing to impose sentence to:

- (a) The person against whom the crime was committed;
- (b) A person who was injured as a direct result of the commission of the crime;
- (c) The surviving spouse, parents or children of a person who was killed as a direct result of the commission of the crime; and
- (d) Any other relative or victim who requests in writing to be notified of the hearing.

➡ Any defect in notice or failure of such persons to appear are not grounds for an appeal or the granting of a writ of habeas corpus. All personal information, including, but not limited to, a current or former address, which pertains to a victim or relative and which is received by the prosecutor pursuant to this subsection is confidential.

5. For the purposes of this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Relative" of a person includes:

- (1) A spouse, parent, grandparent or stepparent;
- (2) A natural born child, stepchild or adopted child;
- (3) A grandchild, brother, sister, half brother or half sister; or
- (4) A parent of a spouse.

(c) "Veteran" has the meaning ascribed to it in NRS 176A.090.

(d) "Victim" includes:

(1) A person, including a governmental entity, against whom a crime has been committed;

(2) A person who has been injured or killed as a direct result of the commission of a crime; and

(3) A relative of a person described in subparagraph (1) or (2).

6. This section does not restrict the authority of the court to consider any reliable and relevant evidence at the time of sentencing.

Sec. 2. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, a defendant is not eligible for assignment to a program of treatment established pursuant to NRS 176A.280 if the defendant:*

(a) *Has previously been assigned to such a program; or*
 (b) *Was discharged or released from the Armed Forces of the United States, a reserve component thereof or the National Guard under dishonorable conditions.*

2. *A defendant described in paragraph (b) of subsection 1 may be assigned to a program of treatment established pursuant to NRS 176A.280 if a justice court, municipal court or district court, as applicable, determines that extraordinary circumstances exist which warrant the assignment of the defendant to the program.*

Sec. 3. NRS 176A.280 is hereby amended to read as follows:

176A.280 ~~{A}~~

1. A district court, justice court or municipal court may establish an appropriate program for the treatment of veterans and members of the military to which it may assign a defendant pursuant to NRS 176A.290 ~~{}~~ if the defendant is a veteran or member of the military and:

(a) ~~{Is the victim of a military sexual assault or appears}~~ Appears to suffer from ~~mental~~:

(1) Mental illness, alcohol or drug abuse, posttraumatic stress disorder or a traumatic brain injury, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life which is necessary after combat service; or

(2) Military sexual trauma;

(b) *Would benefit from assignment to the program; and*

(c) *Is not ineligible for assignment to the program pursuant to section 2 of this act or any other provision of law.*

2. The assignment of a defendant to a program pursuant to this section must ~~{include}~~:

(a) *Include the terms and conditions for successful completion of the program ~~{and provide}~~;*

(b) *Provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program ~~{}~~; and*

(c) *Be for a period of not less than 12 months.*

3. As used in this section ~~{, "military"}~~:

(a) "Military sexual ~~assault~~" trauma" means psychological trauma that is the result of sexual harassment or an act of sexual assault that occurred while the veteran or member of the military was serving on active duty, active duty for training or inactive duty training.

(b) "Sexual harassment" means repeated, unsolicited verbal or physical contact of a sexual nature that is threatening in character.

Sec. 4. NRS 176A.285 is hereby amended to read as follows:

176A.285 ~~{1. A}~~ If a justice court or ~~{a}~~ municipal court has not established a program pursuant to NRS 176A.280, the justice court or municipal court, as applicable, may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving ~~{an eligible}~~ a defendant ~~{~~.

~~2. As used in this section, "eligible defendant" means a veteran or a member of the military who:~~

~~(a) Has} who meets the qualifications of subsection 1 of NRS 176A.280 and has not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor. {~~

~~(b) Appears to suffer from mental illness, alcohol or drug abuse or posttraumatic stress disorder, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life which is necessary after combat service; and~~

~~(c) Would benefit from assignment to a program established pursuant to NRS 176A.280.}~~

Sec. 5. NRS 176A.290 is hereby amended to read as follows:

176A.290 1. Except as otherwise provided in subsection 2 ~~{~~ and section 2 of this act, if a defendant ~~{who is a veteran or a member of the military and who suffers from mental illness, alcohol or drug abuse or posttraumatic stress disorder as}~~ described in NRS ~~{176A.285}~~ 176A.280 tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the *district court, justice court or municipal court, as applicable*, may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.280.

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the *district court, justice court or municipal court, as applicable*, may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment. For the purposes of this subsection, in determining whether an offense involved the use or threatened use of force or violence, the *district court, justice court or municipal court, as applicable*,

shall consider the facts and circumstances surrounding the offense, including, without limitation, whether the defendant intended to place another person in reasonable apprehension of bodily harm.

3. Upon violation of a term or condition:

(a) *The district court, justice court or municipal court, as applicable, may impose sanctions against the defendant for the violation, but allow the defendant to remain in the program. Before imposing a sanction, the court shall notify the defendant of the violation and provide the defendant an opportunity to respond. Any sanction imposed pursuant to this paragraph:*

(1) *Must be in accordance with any applicable guidelines for sanctions established by the National Association of Drug Court Professionals or any successor organization; and*

(2) *May include, without limitation, imprisonment in a county or city jail or detention facility for a term set by the court, which must not exceed 25 days.*

(b) *The district court, justice court or municipal court, as applicable, may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.*

~~[(b)]~~ (c) *Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the district court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.*

4. ~~[(Upon)]~~ *Except as otherwise provided in subsection 5, upon fulfillment of the terms and conditions, the district court, justice court or municipal court, as applicable, shall discharge the defendant and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, complaint, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, complaint, indictment, information or trial in response to an inquiry made of the defendant for any purpose.*

5. *If the defendant was charged with a violation of NRS 200.485, 484C.110 or 484C.120, upon fulfillment of the terms and conditions, the district court, justice court or municipal court, as applicable, may conditionally dismiss the charges. If a court conditionally dismisses the charges, the court shall notify the defendant that the conditionally dismissed charges are a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail in a future case, but are not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose. Conditional dismissal restores the defendant, in the contemplation of*

the law, to the status occupied before the arrest, complaint, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, complaint, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

Sec. 6. NRS 176A.295 is hereby amended to read as follows:

176A.295 1. ~~After~~ *Except as otherwise provided in subsection 2, after a defendant is discharged from probation pursuant to NRS 176A.290, the justice court, municipal court or district court, as applicable, shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The justice court, municipal court or district court, as applicable, shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.*

2. *If the defendant is charged with a violation of NRS 200.485, 484C.110 or 484C.120 and the charges are conditionally dismissed as provided in subsection 5 of NRS 176A.290, not sooner than 7 years after such a conditional dismissal and upon the filing of a petition by the defendant, the justice court, municipal court or district court, as applicable, shall order that all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order be sealed. The justice court, municipal court or district court, as applicable, shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.*

3. *If the justice court, municipal court or district court, as applicable, orders sealed the record of a defendant discharged or whose charges were conditionally dismissed pursuant to NRS 176A.290, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the justice court, municipal court or district court, as applicable, in writing of its compliance with the order.*

Sec. 7. NRS 4.370 is hereby amended to read as follows:

4.370 1. Except as otherwise provided in subsection 2, justice courts have jurisdiction of the following civil actions and proceedings and no others except as otherwise provided by specific statute:

(a) In actions arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, does not exceed \$15,000.

(b) In actions for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed does not exceed \$15,000.

(c) Except as otherwise provided in paragraph (l), in actions for a fine, penalty or forfeiture not exceeding \$15,000, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(d) In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not exceed \$15,000, though the penalty may exceed that sum. Bail bonds and other undertakings posted in criminal matters may be forfeited regardless of amount.

(e) In actions to recover the possession of personal property, if the value of the property does not exceed \$15,000.

(f) To take and enter judgment on the confession of a defendant, when the amount confessed, exclusive of interest, does not exceed \$15,000.

(g) Of actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed \$15,000 or when no damages are claimed.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed \$15,000 or when no damages are claimed.

(i) Of suits for the collection of taxes, where the amount of the tax sued for does not exceed \$15,000.

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$15,000.

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$15,000.

(l) In actions for a fine imposed for a violation of NRS 484D.680.

(m) Except as otherwise provided in this paragraph, in any action for the issuance of a temporary or extended order for protection against domestic violence. A justice court does not have jurisdiction in an action for the issuance of a temporary or extended order for protection against domestic violence:

(1) In a county whose population is 100,000 or more and less than 700,000;

(2) In any township whose population is 100,000 or more located within a county whose population is 700,000 or more; or

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court.

(n) In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive.

(o) In small claims actions under the provisions of chapter 73 of NRS.

(p) In actions to contest the validity of liens on mobile homes or manufactured homes.

(q) In any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment.

(r) In any action pursuant to NRS 200.378 for the issuance of a protective order against a person alleged to have committed the crime of sexual assault.

(s) In actions transferred from the district court pursuant to NRS 3.221.

(t) In any action for the issuance of a temporary or extended order pursuant to NRS 33.400.

(u) In any action seeking an order pursuant to NRS 441A.195.

2. The jurisdiction conferred by this section does not extend to civil actions, other than for forcible entry or detainer, in which the title of real property or mining claims or questions affecting the boundaries of land are involved.

3. Justice courts have jurisdiction of all misdemeanors and no other criminal offenses except as otherwise provided by specific statute. Upon approval of the district court, a justice court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or, *if the justice court has not established a program pursuant to NRS 176A.280* ~~{ }~~, *to a program established pursuant to that section.*

4. Except as otherwise provided in subsections 5 and 6, in criminal cases the jurisdiction of justices of the peace extends to the limits of their respective counties.

5. In the case of any arrest made by a member of the Nevada Highway Patrol, the jurisdiction of the justices of the peace extends to the limits of their respective counties and to the limits of all counties which have common boundaries with their respective counties.

6. Each justice court has jurisdiction of any violation of a regulation governing vehicular traffic on an airport within the township in which the court is established.

Sec. 8. NRS 4.374 is hereby amended to read as follows:

4.374 1. *As soon as possible after a defendant is arrested or cited, the justice of the peace shall attempt to determine whether the defendant is a veteran or a member of the military and, if so, whether the defendant meets the qualifications of subsection 1 of NRS 176A.280.*

2. Before accepting a plea from a defendant or proceeding to trial, the justice of the peace shall ~~{address}~~:

(a) *Address the defendant personally and ask the defendant if he or she is a veteran or a member of the military* ~~{ }~~; *and*

(b) *Determine whether the defendant meets the qualifications of subsection 1 of NRS 176A.280.*

~~{2.}~~ 3. ~~If the defendant is a veteran or a member of the military and~~ meets the qualifications of *subsection 1 of NRS* ~~{176A.285.}~~ 176A.280, the justice court may, *if the justice court has not established a program pursuant*

to NRS 176A.280 and, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

- (a) A program of treatment established pursuant to NRS 176A.280; or
- (b) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

~~{3-}~~ 4. As used in this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Veteran" has the meaning ascribed to it in NRS 176A.090.

Sec. 9. NRS 5.050 is hereby amended to read as follows:

5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

- (a) For the violation of any ordinance of their respective cities.
- (b) To prevent or abate a nuisance within the limits of their respective cities.

2. The municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or , *if the municipal court has not established a program pursuant to NRS 176A.280* ~~{-}~~ , *to a program established pursuant to that section.*

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed \$2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed \$2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed \$2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed \$2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed \$2,500.

(f) Actions seeking an order pursuant to NRS 441A.195.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the

district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

Sec. 10. NRS 5.057 is hereby amended to read as follows:

5.057 1. *As soon as possible after a defendant is arrested or cited, the municipal judge shall attempt to determine whether the defendant is a veteran or a member of the military and, if so, whether the defendant meets the qualifications of subsection 1 of NRS 176A.280.* Before accepting a plea from a defendant or proceeding to trial, the municipal judge shall ~~address~~ :

(a) *Address the defendant personally and ask the defendant if he or she is a veteran or a member of the military* ~~[-]~~ ; and

(b) *Determine whether the defendant meets the qualifications of subsection 1 of NRS 176A.280.*

2. If the defendant ~~is a veteran or a member of the military and~~ meets the qualifications of *subsection 1 of NRS* ~~[176A.285,]~~ 176A.280, the municipal court may, *if the municipal court has not established a program pursuant to NRS 176A.280 and*, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to NRS 176A.280; or

(b) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. As used in this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Veteran" has the meaning ascribed to it in NRS 176A.090.

Sec. 11. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to subsection 2 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 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. 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 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]~~ :

(a) *When evidenced by a conviction ~~[]~~ ; or*

(b) *If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,*

↪ 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. 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. 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. 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. 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]~~ *Except as otherwise provided in [NRS 4.373 and 5.055,] this subsection, a court shall not grant probation to or suspend the sentence of such a person. A court may grant probation to or suspend the sentence of such a person:*

(a) As set forth in NRS 4.373 and 5.055; or

(b) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

9. 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. 11.5. NRS 484C.400 is hereby amended to read as follows:

484C.400 1. Unless a greater penalty is provided pursuant to NRS 484C.430 or 484C.440, and except as otherwise provided in NRS 484C.410, a person who violates the provisions of NRS 484C.110 or 484C.120:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless the person is allowed to undergo treatment as provided in NRS 484C.320, the court shall:

(1) Except as otherwise provided in subparagraph (4) of this paragraph or subsection ~~{2}~~ 3 of NRS 484C.420, order the person to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the Department and complete the course within the time specified in the order, and the court shall notify the Department if the person fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484C.320, sentence the person to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform not less than 48 hours, but not more than 96 hours, of community service while dressed in distinctive garb that identifies the person as having violated the provisions of NRS 484C.110 or 484C.120;

(3) Fine the person not less than \$400 nor more than \$1,000; and

(4) If the person is found to have a concentration of alcohol of 0.18 or more in his or her blood or breath, order the person to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484C.360.

(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484C.330, the court shall:

(1) Sentence the person to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

(2) Fine the person not less than \$750 nor more than \$1,000, or order the person to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies the person as having violated the provisions of NRS 484C.110 or 484C.120; and

(3) Order the person to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484C.360.

➔ A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

(c) Except as otherwise provided in NRS 484C.340, for a third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. An offender who is imprisoned pursuant to the provisions of this paragraph must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. 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}~~ :

(a) When evidenced by a conviction ~~{};~~ or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

➡ 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.

3. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484C.320 or 484C.330 and the suspension of his or her sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560, 484C.410 or 485.330 must run consecutively.

5. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

6. For the purpose of determining whether one offense occurs within 7 years of another offense, any period of time between the two offenses during which, for any such offense, the offender is imprisoned, serving a term of residential confinement, placed under the supervision of a treatment provider, on parole or on probation must be excluded.

7. As used in this section, unless the context otherwise requires, "offense" means:

(a) A violation of NRS 484C.110, 484C.120 or 484C.430;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or

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

Sec. 12. NRS 484C.420 is hereby amended to read as follows:

484C.420 1. ~~{A}~~ Except as otherwise provided in subsection 2, a person convicted of violating the provisions of NRS 484C.110 or 484C.120 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484C.320,

484C.330 and 484C.340, that portion of the sentence imposed that exceeds the mandatory minimum. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 484C.110 or 484C.120 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 attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

2. *The court may grant probation to or suspend the sentence of a person to assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first violation of the provisions of NRS 484C.110 or 484C.120 that is punishable as a misdemeanor.*

3. If the person who violated the provisions of NRS 484C.110 or 484C.120 possesses a driver's license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) of subsection 1 of NRS 484C.400, the court shall:

(a) Order the person to pay tuition for and submit evidence of completion of an educational course on the abuse of alcohol and controlled substances approved by a governmental agency of the state of the person's residence within the time specified in the order; or

(b) Order the person to complete an educational course by correspondence on the abuse of alcohol and controlled substances approved by the Department within the time specified in the order,

➡ and the court shall notify the Department if the person fails to complete the assigned course within the specified time.

Sec. 13. This act becomes effective upon passage and approval.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 939 to Assembly Bill No. 286 changes the term military sexual assault to military sexual trauma and provides a definition of the term that is consistent with federal law.

Amendment adopted.

Bill read third time.

Remarks by Senator Cannizzaro.

Assembly Bill No. 286 authorizes a justice court or municipal court to establish a program for the treatment of veterans and members of the military who are charged with first misdemeanor offenses of battery constituting domestic violence or driving under the influence of alcohol or drugs. To be eligible for the program, the person must be a victim of military sexual assault or appear to suffer from mental illness, alcohol or drug abuse, posttraumatic stress disorder, traumatic brain injury or problematic readjustment to civilian life that appears to be related to military service. The bill specifies circumstances that would make a defendant ineligible for the program and authorizes sanctions against a defendant who violates the terms and conditions of the program. The court may conditionally dismiss the charges against a person who successfully completes this program or a diversionary or specialty court program. All records relating to the charges must be sealed not sooner than seven years after the conditional dismissal and upon the filing of a petition by the defendant. Conditionally-dismissed offenses constitute prior offenses for purposes of determining program eligibility.

Roll call on Assembly Bill No. 286:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 286 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 288.

Bill read third time.

Senator Cannizzaro moved to take the bill from the General File on the first Agenda and place it on the General File, last Agenda.

Motion carried.

Assembly Bill No. 377.

Bill read third time.

Remarks by Senator Gustavson.

Assembly Bill No. 377 prohibits a prosecuting attorney from seeking an indictment of a defendant for any offense while competency proceedings are pending except upon application to the chief judge of the district court and with leave of the court. The prosecuting attorney must demonstrate that adequate cause exists for the court to grant leave to seek an indictment. The prosecuting attorney must give notice of an application to the attorney for the defendant at least 24 hours before the hearing on the application.

The bill also authorizes the Administrator of the Division of Public and Behavioral Health to file a motion to request an extension of the length of commitment to a forensic facility for not more than five additional years for a defendant who has been found incompetent and who has been charged with murder or sexual assault. A court may grant the motion for an extension of commitment after a hearing to determine whether the person meets certain criteria requiring placement at a forensic facility, and a committed person has the right to be represented by counsel at such a hearing and the right to have an attorney appointed for him or her if the person does not have counsel.

The measure also provides for the refiling of charges in cases where the prosecuting attorney applied for and was granted leave of the court and where the State has a good-faith belief that the defendant has regained competency, a compelling interest in bringing charges again and the period for commencing the criminal action has not lapsed. Finally, the prosecuting attorney is required to give at least 24-hour notice of the application to the defendant's attorney.

Roll call on Assembly Bill No. 377:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 377 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 379.

Bill read third time.

Remarks by Senator Ratti.

Assembly Bill No. 379 authorizes, under certain circumstances, the governing body of a local government to create a parks, trails and open space district. Before creating a district, the governing body must create a service plan. The district may be created by a resolution adopted by

the governing body or a petition to a governing body, subject to the governing body's approval, by an owner of property within the proposed boundaries of the district. Further, the bill authorizes property owners within the proposed district to protest the creation of the district. The bill also provides for the appointment of initial members of the board of trustees of a district and prohibits members of the board from being interested in the purchase or sale of property belonging to the district or entering into certain contracts. Finally, the bill authorizes a board to impose and collect fees, special assessments or ad valorem taxes for facilities, improvements or projects of the district. Ad valorem taxes shall not be levied or collected related to the district unless the board of the district has entered into an interlocal agreement with each county in which the district is located.

Roll call on Assembly Bill No. 379:

YEAS—13.

NAYS—Gansert, Goicoechea, Gustavson, Hammond, Hardy, Roberson, Settlemeyer—7.

EXCUSED—Kieckhefer.

Assembly Bill No. 379 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 380.

Bill read third time.

Remarks by Senator Segerblom.

Assembly Bill No. 380 allows an owner of real property who has improved the property specifically for pedestrian use and has opened the property to the public for such use to record a notice in the office of any county recorder providing that any such use of the owner's real property is with the permission of and subject to the control of the owner. A land owner may post notice stating that the right to pass over such land is by permission and subject to the control of the owner. In addition, the measure prohibits a person from maintaining an action constituting an easement by prescription regardless of whether the owner posts certain notice on the property or records a notice. Lastly, a governing body of a city or county is authorized to adopt ordinances governing the composition of a sign posted by a land owner under certain circumstances.

Roll call on Assembly Bill No. 380:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 380 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 420.

Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 420 provides that the Director of the Department of Corrections may establish a charge on the use of approved videoconferencing equipment by offenders in order to defray the costs relating to the operation and maintenance of the equipment but prohibits the Director from charging an inmate for the use of such equipment in order to communicate with his or her child.

Roll call on Assembly Bill No. 420:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 420 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 447.

Bill read third time.

Remarks by Senator Spearman.

Assembly Bill No. 447 continues the Victory schools program for the 2017-2019 Biennium. The bill also adds evidence-based programs, integrated student supports and wrap-around services to the list of items on which a Victory school must use a majority of certain funding. An obsolete reference to expanding full-day kindergarten is removed from this list. This bill also requires consultation with a school district when designating a Victory school and allows a Victory high school to provide certain additional instruction or other learning opportunities for pupils and professional development for teachers at other schools in its zone of attendance that are not designated as Victory schools.

Roll call on Assembly Bill No. 447:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 447 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 495.

Bill read third time.

Remarks by Senator Woodhouse.

Assembly Bill No. 495 appropriates from the State General Fund to the Division of Emergency Management of the Department of Public Safety the sum of \$70,387 for a projected shortfall related to setting up a joint field office with the Federal Emergency Management Agency on flood reimbursements related to the 2017 floods.

Roll call on Assembly Bill No. 495:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 495 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 496.

Bill read third time.

Remarks by Senator Woodhouse.

Assembly Bill No. 496 appropriates \$598,200 from the State General Fund to the Office of the Secretary of State for a projected shortfall related to credit-card processing fees.

Roll call on Assembly Bill No. 496:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Assembly Bill No. 496 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 5.

Resolution read third time.

Remarks by Senators Woodhouse and Gansert.

SENATOR WOODHOUSE:

Assembly Joint Resolution No. 5 proposes to amend the *Nevada Constitution* to remove the constitutional provisions relating to the election and duties of the Board of Regents of the University of Nevada. The Legislature shall provide by law for the governance, control and management of the University and the establishment of its various departments. The resolution also requires the Legislature to set by law the reasonable protection of individual academic freedoms and the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, ethical and other educational improvements. Proceeds of public lands donated for the support of the institution shall be invested by the State of Nevada as required by law.

If approved in identical form during the 2019 Legislative Session, the proposal will be submitted to the voters for final approval or disapproval at the 2020 General Election. Assembly Joint Resolution No. 5 may be cited as the Nevada Higher Education Reform, Accountability and Oversight Amendment.

SENATOR GANSERT:

I am an employee of the Nevada System of Higher Education (NSHE). I spoke with the Legislative Counsel Bureau concerning whether there was a conflict of interest in my voting on Assembly Joint Resolution No. 5. Because this bill will not affect me differently than any other NSHE employee. I do not have a conflict of interest. Thus, I am not required under Rule 23 to make a disclosure, and I will be voting on the bill. I did, however, for the sake of transparency, want to put this statement on the record.

Roll call on Assembly Joint Resolution No. 5:

YEAS—18.

NAYS—Gansert, Gustavson—2.

EXCUSED—Kieckhefer.

Assembly Joint resolution No. 5 having received a constitutional majority, Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Senate Bill No. 541.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 942.

SUMMARY—Enhances the criminal penalty for certain crimes committed against first responders. (BDR 15-1219)

AN ACT relating to crimes; enhancing the criminal penalty for certain crimes committed against first responders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that any person who willfully commits certain crimes because of the fact that the victim is a first responder, which section 1

defines as any ~~[police, fire or emergency medical personnel]~~ peace officer, firefighter or emergency medical provider acting in the normal course of duty, may, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

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

Section 1. Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.030, 200.050, 200.280, 200.310, 200.366, 200.380, 200.400, 200.460, NRS 200.471 which is punishable as a felony, NRS 200.481 which is punishable as a felony, NRS 205.0832 which is punishable as a felony, NRS 205.220, 205.226, 205.228, 205.270 or 206.150 because of the fact that the victim is a first responder may, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:*

- (a) The facts and circumstances of the crime;*
- (b) The criminal history of the person;*
- (c) The impact of the crime on any victim;*
- (d) Any mitigating factors presented by the person; and*
- (e) Any other relevant information.*

↪ *The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.*

2. *A sentence imposed pursuant to this section:*

- (a) Must not exceed the sentence imposed for the crime; and*
- (b) Runs consecutively with the sentence prescribed by statute for the crime.*

3. *This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.*

4. *As used in this section, "first responder" means any ~~[police, fire or emergency medical personnel]~~ peace officer, firefighter or emergency medical provider acting in the normal course of duty. As used in this subsection:*

(a) "Emergency medical provider" has the meaning ascribed to it in NRS 450B.199.

(b) "Firefighter" has the meaning ascribed to it in NRS 450B.071.

(c) "Peace officer" has the meaning ascribed to it in NRS 169.125.

Sec. 2. NRS 193.169 is hereby amended to read as follows:

193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168,

subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 *or section 1 of this act* must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection 3 of NRS 193.161, subsection 3 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 *or section 1 of this act* even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

3. This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.

(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.

Sec. 3. The amendatory provisions of this act apply to an offense committed on or after October 1, 2017.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 942 to Senate Bill No. 541 revises the definition of "first responder" to ensure that the bill's provisions pertain to peace officers, firefighters and emergency medical providers.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 150.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 703.

SUMMARY—Revises provisions governing private professional guardians. (BDR 13-808)

AN ACT relating to private professional guardians; revising provisions governing the qualifications necessary to serve as a private professional guardian; requiring certain persons to submit fingerprints to the Division of Financial Institutions of the Department of Business and Industry not less than once every 5 years for the purpose of obtaining a report from the Federal Bureau of Investigation; requiring the Division to maintain a copy of all such reports; requiring the Commissioner of Financial Institutions to adopt regulations establishing any fee required to obtain such reports; prohibiting a person from engaging in any activity relating to service as a private

professional guardian without meeting the necessary requirements; revising provisions relating to an application for a license to engage in the business of a private professional guardian; replacing references to the term "case manager"; revising certain reporting requirements for private professional guardian companies; revising provisions relating to required fidelity bonds; removing the provision that exempts private professional guardians from the provisions of law concerning summary administration granted by a court; revising provisions relating to certain investigations by the Commissioner; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that in order for a natural person to serve as a private professional guardian, the person must be: (1) qualified to serve as a guardian for an adult or a minor; and (2) a guardian who has a license to engage in the business of a private professional guardian or who does not have such a license but is certified by the Center for Guardianship Certification. (NRS 159.0595) Section 2 of this bill removes the requirement relating to the licensure of a natural person and generally provides that in order for a person to serve as a private professional guardian, the person must be: (1) a natural person who is employed by an entity that is licensed to engage in the business of a private professional guardian and who is certified by the Center for Guardianship Certification; or (2) an entity that is licensed to engage in the business of a private professional guardian and meets certain other requirements. Sections 1, ~~[4-9, 11-14]~~ 4-7, 12, 13 and ~~[15-20]~~ 15-17 of this bill make conforming changes.

Existing law requires, as part of an application for a license to engage in the business of a private professional guardian, that certain persons submit to the Commissioner of Financial Institutions a complete set of fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation (hereinafter "FBI") for its report. (NRS 628B.310) Section 3 of this bill requires: (1) ~~[certain persons]~~ each natural person who acts in any capacity within a private professional guardian company to submit to the Commissioner, not less than once every 5 years, a complete set of fingerprints and such written permission to enable the Division to obtain a report from the FBI; and (2) the Division to maintain a copy of all reports obtained from the FBI. Section 3 also requires the Commissioner to adopt regulations establishing the amount of any fee required to obtain a report from the FBI.

Existing law also requires the Commissioner to investigate the facts of an application and the other requirements set forth by law to determine information about certain persons, including any person acting in a case manager capacity. (NRS 628B.330) ~~[Existing law further requires the director or manager of a private professional guardian company to require fidelity bonds on certain persons, including a member of the company acting in a case manager capacity, to indemnify the company against loss. (NRS 628B.540)]~~

Sections 9 ~~and 10~~ of this bill replace the term "case manager" with references to a natural person who acts in a capacity in which he or she is authorized to make discretionary decisions on behalf of the applicant or private professional guardian company, as applicable. Sections 9 and 10 also revise provisions relating to an application for a license to engage in the business of a private professional guardian.

Existing law requires the director or manager of a private professional guardian company to require fidelity bonds in an amount of at least \$25,000 on certain persons. (NRS 628B.540) Section 14 of this bill requires a private professional guardian company to require such bonds on each natural person who acts in any capacity within the private professional guardian company.

Existing law provides that with regard to guardianships and the administration of smaller estates, the court is authorized to grant a summary administration if it appears that the value of the property of a ward, after payment of all claims and expenses of the guardianship, does not exceed \$10,000. If the court grants a summary administration, the guardian is required to file an inventory and record of value with the court, and the court is authorized to impose certain requirements upon the guardian. (NRS 159.076) Existing law also provides that such provisions concerning summary administration do not apply to a private professional guardian. (NRS 628B.550) Section 15 removes this exemption.

Section 8 of this bill provides that it is unlawful for any person who does not meet the requirements necessary to serve as a private professional guardian to engage in any activity relating to service as a private professional guardian. Section 19 of this bill requires the Commissioner to conduct an investigation if he or she receives a verified complaint that a person who does not meet the requirements necessary to serve as a private professional guardian is engaging in any activity relating to service as a private professional guardian.

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

Section 1. NRS 159.024 is hereby amended to read as follows:

159.024 1. "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the guardian by blood or marriage ~~and who meets the requirements set forth in NRS 159.0595.~~

2. For the purposes of this chapter, the term includes ~~the~~

~~—(a) A person who~~ an entity that serves as a private professional guardian and ~~who~~ is ~~required~~ :

~~(a) Required to have a license issued pursuant to chapter 628B of NRS ~~and~~ ;~~
~~or~~

~~(b) [A person who serves as a private professional guardian but who is exempt] Exempt pursuant to NRS 159.0595 or 628B.110 from the requirement to have a license issued pursuant to chapter 628B of NRS.~~

3. The term does not include:

(a) A governmental agency.

(b) A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.

Sec. 2. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. In order for a person to serve as a private professional guardian, the person must be:

(a) ~~{Qualified to serve as a guardian pursuant to NRS 159.0613 if the ward is an adult or NRS 159.061 if the ward is a minor; and~~

~~—(b)— A {guardian} natural person who {has a license issued} is a certified guardian and is employed by an entity that is licensed pursuant to chapter 628B of NRS {for a certified guardian who} , unless the entity is not required to have such a license pursuant to subsection {3;}~~

~~—2. In order for an entity to serve as a private professional guardian, the} 2; or~~

(b) An entity ~~{must;~~

~~—(a) Be} that:~~

(1) Is qualified to serve as a guardian pursuant to NRS 159.0613 if the ward is an adult;

~~{(b) Have}~~

(2) Has a license issued pursuant to chapter 628B of NRS , unless the entity is not required to have such a license pursuant to subsection {3;} 2; and

~~{(c) Have}~~

(3) Has a private professional guardian who ~~{has a license issued pursuant to chapter 628B of NRS or a certified guardian who is not required to have such a license pursuant to subsection 3}~~ meets the requirements set forth in paragraph (a) involved in the day-to-day operation or management of the entity.

~~{3. In order for a person or}~~

2. An entity that wishes to serve as a private professional guardian ~~{, the person or entity}~~ is not required to have a license issued pursuant to chapter 628B of NRS if the ~~{person or}~~ entity is exempt from the requirement to have such a license pursuant to NRS 628B.110 . ~~{and the person or entity;~~

~~—(a) Is a banking corporation as defined in NRS 657.016;~~

~~—(b) Is an organization permitted to act as a fiduciary pursuant to NRS 662.245;~~

~~—(c) Is a trust company as defined in NRS 669.070;~~

~~—(d) Is acting in the performance of his or her duties as an attorney at law;~~

~~—(e) Acts as a trustee under a deed of trust; or~~

~~—(f) Acts as a fiduciary under a court trust.~~

~~—4.} 3. As used in this section:~~

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

~~{(c) "Person" means a natural person.}~~

Sec. 3. Chapter 628B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each [member, partner, director, officer, manager or employee of a private professional guardian company, and any] natural person who acts in [a] any capacity [in which he or she is authorized to make discretionary decisions on behalf of the] within a private professional guardian company[,] shall, before acting in any such capacity and not less than once every 5 years thereafter, submit to the Commissioner [pursuant to this section or subsection 5 of NRS 628B.310, as applicable,] a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

Sec. 3. Chapter 628B of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Each [member, partner, director, officer, manager or employee of a private professional guardian company, and any] natural person who acts in [a] any capacity [in which he or she is authorized to make discretionary decisions on behalf of the] within a private professional guardian company [,]~~ shall, before acting in any such capacity and not less than once every 5 years thereafter, submit to the Commissioner ~~[pursuant to this section or subsection 5 of NRS 628B.310, as applicable,]~~ a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. ~~The Division shall maintain a copy of all reports obtained pursuant to this section, [and subsection 5 of NRS 628B.310.]~~

3. ~~The Commissioner shall adopt regulations establishing the amount of any fee required to obtain a report pursuant to this section. All money received by the Commissioner must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.~~

Sec. 4. NRS 628B.010 is hereby amended to read as follows:

628B.010 The Legislature finds and declares that:

1. There exists in this State a need, in order to provide for the protection of the public interest, to regulate ~~[persons]~~ entities engaged in the business of private professional guardians ~~[,]~~ and persons employed by such entities.

2. ~~[Persons]~~ Entities engaging in the business of private professional guardians must be licensed and regulated in such a manner as to promote advantages and convenience for the public while protecting the public interest.

3. It is the purpose of this chapter to bring under public supervision ~~[persons who]~~ entities that are engaged in or ~~[who]~~ desire to engage in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.

Sec. 5. NRS 628B.030 is hereby amended to read as follows:

628B.030 "Business of a private professional guardian" means the holding out by ~~{a person,}~~ *an entity*, through advertising, solicitation or other means, that the ~~{person}~~ *entity or a person employed by the entity* is available to act for compensation as a private professional guardian.

Sec. 6. NRS 628B.080 is hereby amended to read as follows:

628B.080 1. "Private professional guardian" has the meaning ascribed to it in NRS 159.024.

2. For the purposes of this chapter, the term does not include ~~{a person who}~~ *an entity* that serves as a private professional guardian but ~~{who}~~ is exempt pursuant to NRS 159.0595 or 628B.110 from the requirement to have a license issued pursuant to this chapter.

Sec. 7. NRS 628B.090 is hereby amended to read as follows:

628B.090 1. "Private professional guardian company" means a ~~{natural person or}~~ business entity, including, without limitation, a sole proprietorship, partnership, limited-liability company or corporation, that is licensed pursuant to the provisions of this chapter to engage in the business of a private professional guardian, whether appointed by a court or hired by a private party.

2. For the purposes of this chapter, the term does not include a ~~{natural person or}~~ business entity which engages in the business of a private professional guardian but which is exempt pursuant to NRS 159.0595 or 628B.110 from the requirement to have a license issued pursuant to this chapter.

Sec. 8. NRS 628B.300 is hereby amended to read as follows:

628B.300 It is unlawful for any person ~~{entity}~~ to engage in any activity relating to service as a private professional guardian, including, without limitation, engaging in the business of a private professional guardian ~~{without having a license issued by the Commissioner pursuant to this chapter,}~~ , if the person does not meet the requirements set forth in NRS 159.0595.

Sec. 9. NRS 628B.310 is hereby amended to read as follows:

628B.310 1. ~~{A person wishing}~~ *An applicant for a license* to engage in the business of a private professional guardian in this State must file with the Commissioner an application on a form prescribed by the Commissioner, which must contain or be accompanied by such information as is required.

2. A nonrefundable fee of not more than \$750 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary.

3. The application must contain:

(a) The name of the applicant and the name under which the applicant does business or expects to do business, if different.

(b) The complete business and residence addresses of the applicant.

(c) The character of the business sought to be carried on.

(d) The address of any location where business will be transacted.

(e) In the case of a firm or partnership, the full name and residence address of each member or partner and the manager.

(f) In the case of a corporation or voluntary association, the name and residence address of each director and officer and the manager.

(g) *The name and residence address of each person who will be employed by the applicant as a private professional guardian pursuant to paragraph (a) of subsection 1 of NRS 159.0595.*

~~(h)~~ A statement by the applicant acknowledging that the applicant is required to comply with the provisions of NRS 159.0595 if issued a license.

~~(h)~~ (i) Any other information reasonably related to the applicant's qualifications for the license which the Commissioner determines to be necessary.

4. Each application for a license must have attached to it a financial statement showing the assets, liabilities and net worth of the applicant ~~and~~ *each person who will be employed by the applicant as a private professional guardian pursuant to paragraph (a) of subsection 1 of NRS 159.0595.*

5. In addition to any other requirements, each ~~applicant or member, partner, director, officer, manager or case manager-employee of an applicant, and any~~ *natural person who acts in* ~~any capacity in which he or she is authorized to make discretionary decisions on behalf of the applicant,~~ *within a private professional guardian company shall submit to the Commissioner a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report,* *before acting in any such capacity, comply with the provisions of section 3 of this act.*

6. If the applicant is a corporation or limited-liability company, the articles of incorporation or articles of organization must contain:

(a) The name adopted by the private professional guardian company, which must distinguish it from any other private professional guardian company formed or incorporated in this State or engaged in the business of a private professional guardian in this State; and

(b) The purpose for which it is formed.

7. The Commissioner shall deem an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is submitted to the Commissioner. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays the required fees.

8. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section, subject to the following limitations:

(a) An initial fee of not more than \$1,500 for a license to transact the business of a private professional guardian; and

(b) A fee of not more than \$300 for each branch office that is authorized by the Commissioner.

9. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

Sec. 10. NRS 628B.330 is hereby amended to read as follows:

628B.330 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That each person who will serve as a sole proprietor, partner of a partnership, member of a limited-liability company or director or officer of a corporation, ~~and~~ any person acting in a managerial ~~for case manager~~ capacity ~~or in a capacity in which he or she is authorized to make discretionary decisions on behalf of the applicant~~ and any person who will be employed by the applicant as a private professional guardian pursuant to paragraph (a) of subsection 1 of NRS 159.0595, as applicable:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to engage in the business of a private professional guardian in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of those qualifications, including, without limitation, evidence that the applicant has passed an examination for private professional guardians specified by the Commissioner.

(2) Has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony or any crime involving fraud, misrepresentation, material omission, misappropriation, conversion or moral turpitude.

(3) Has not made a false statement of material fact on the application.

(4) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license issued pursuant to the provisions of this chapter was suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(5) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license as a private professional guardian company which was issued by any other state, district or territory of the United States or any foreign country was suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(6) Has not violated any of the provisions of this chapter or any regulations adopted pursuant thereto.

(b) That the financial status of each sole proprietor, partner, member or director and officer of the corporation ~~and~~, each person acting in a managerial ~~for case manager~~ capacity or in a capacity in which he or she is authorized to make discretionary decisions on behalf of the applicant and each

person who will be employed by the applicant as a private professional guardian pursuant to paragraph (a) of subsection 1 of NRS 159.0595 indicates fiscal responsibility consistent with his or her position.

(c) That the name of the proposed business complies with all applicable statutes.

(d) That, except as otherwise provided in NRS 628B.540, the initial surety bond is not less than the amount required by NRS 159.065.

2. In rendering a decision on an application for a license, the Commissioner shall consider, without limitation:

(a) The proposed markets to be served and, if they extend outside this State, any exceptional risk, examination or supervision concerns associated with those markets;

(b) Whether the proposed organizational and equity structure and the amount of initial equity or fidelity and surety bonds of the applicant appear adequate in relation to the proposed business and markets, including, without limitation, the average level of assets under guardianship projected for each of the first 3 years of operation; and

(c) Whether the applicant has planned suitable annual audits conducted by qualified outside auditors of its books and records and its fiduciary activities under applicable accounting rules and standards as well as suitable internal audits.

Sec. 11. NRS 628B.380 is hereby amended to read as follows:

628B.380 1. A license issued pursuant to this chapter is not transferable or assignable, but upon the approval of the Commissioner and any applicable court of jurisdiction, a ~~licensee~~ *private professional guardian company* may merge or consolidate with, or transfer its assets and control to, another ~~person who~~ *entity that holds a license pursuant to this chapter.* ~~private professional guardian company.~~ In determining whether to grant the approval, the Commissioner may consider the factors set forth in NRS 628B.330.

2. If a change in the control of a private professional guardian company occurs, the chief executive officer or managing member of the company shall report the change in control and the name of the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A private professional guardian company shall, within 5 business days after a change occurs in the chief executive officer, managing member, ~~for~~ a majority of the directors or managing directors of the company ~~occurs,~~ or the employment of any private professional guardian, report the change to the Commissioner. The company shall include in its report to the Commissioner a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director, ~~for~~ managing director ~~or private professional guardian.~~ A new chief executive officer, managing member, director, ~~for~~ managing director or private professional guardian shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who intends to acquire control of a private professional guardian company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation pursuant to NRS 628B.330 to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to control the private professional guardian company in a manner which protects the interests of the general public.

5. The private professional guardian company of which the applicant intends to acquire control shall pay the nonrefundable cost of the investigation as required by the Commissioner. If the Commissioner denies the application, the Commissioner may prohibit or limit the applicant's participation in the business.

6. As used in this section, "control" means the possession, directly or indirectly, of the authority to direct or cause the direction of the management and policy of a private professional guardian company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, the company.

Sec. 12. NRS 628B.520 is hereby amended to read as follows:

628B.520 1. A private professional guardian company licensed pursuant to this chapter shall maintain its principal office in this State.

2. To qualify as the principal office for the purposes of subsection 1, an office of the private professional guardian company must:

(a) Have a verifiable physical location in this State at which the private professional guardian company conducts such business operations in this State as are necessary to administer private professional guardianships in this State;

(b) Have available at the office a private professional guardian who *meets the requirements set forth in paragraph (a) of subsection 1 of NRS 159.0595* and is ~~licensed pursuant to this chapter,~~ a permanent resident of this State and at least 21 years of age;

(c) Have any license issued pursuant to this chapter conspicuously displayed;

(d) Have available at the office originals or true copies of all material business records and accounts of the private professional guardian company, which must be readily available to access and readily available for examination by the Division;

(e) Have available to the public written procedures for making claims against the surety bond required to be maintained pursuant to NRS 628B.540;

(f) Have available all services to residents of this State which are consistent with the business plan of the private professional guardian company included with the application for a license; and

(g) Comply with any other requirements specified by the Commissioner.

Sec. 13. NRS 628B.530 is hereby amended to read as follows:

628B.530 1. It is unlawful for any ~~person~~ private professional guardian company licensed pursuant to this chapter to engage in the business

of a private professional guardian at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located outside this State, the private professional guardian *company* must:

(a) Obtain from that state any required license as a private professional guardian; or

(b) Provide proof satisfactory to the Commissioner that the private professional guardian company has met all the requirements to engage in the business of a private professional guardian in that state pursuant to its laws, including, without limitation, written documentation from the appropriate court or state agency that the private professional guardian company is authorized to do business in that state.

3. For each branch location of a private professional guardian company organized under the laws of this State, and every branch location in this State of a foreign private professional guardian company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on forms prescribed by the Commissioner. A nonrefundable fee of not more than \$500, as provided by the Commissioner, must accompany each request. In addition, a fee of not more than \$200, to be prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request. Money collected pursuant to this section must be deposited in the Investigative Account for Financial Institutions created by NRS 232.545.

4. A foreign corporation or limited-liability company wishing to engage in the business of a private professional guardian in this State must use a name that distinguishes it from any other private professional guardian in this State.

Sec. 14. NRS 628B.540 is hereby amended to read as follows:

628B.540 1. The Commissioner may require a private professional guardian company to maintain equity, fidelity and surety bonds in amounts that are more than the minimum required initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the business plan of the private professional guardian or other information contained in the application, the Commissioner's investigation of the application or any examination of or filing by the private professional guardian company thereafter, including, without limitation, any examination before the opening of the business. In making such a determination, the Commissioner may consider, without limitation:

(a) The nature and type of business to be conducted by the private professional guardian company;

(b) The nature and liquidity of assets proposed to be held in the account of the private professional guardian company;

(c) The amount of fiduciary assets projected to be under the management or administration of the private professional guardian company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of the fiduciary duties and degree of discretion proposed to be undertaken by the private professional guardian company;

(f) The competence and experience of the proposed management of the private professional guardian company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The adequacy of fidelity and surety bonds and any additional insurance proposed to be obtained by the private professional guardian company for the purpose of protecting its fiduciary assets;

(k) The success of the private professional guardian company in achieving the financial projections submitted with its application for a license; and

(l) The fulfillment by the private professional guardian company of its representations and its descriptions of its business structures and methods and management set forth in its application for a license.

2. ~~[The director or manager of a]~~ A private professional guardian company shall require fidelity bonds in the amount of at least \$25,000 on ~~[the sole proprietor or each active officer, manager, employee and member acting in a managerial or case manager capacity and employee, or in a]~~ each natural person who acts in any capacity within the private professional guardian company, regardless of whether the person receives a salary or other compensation from the private professional guardian company, to indemnify the company against loss due to any dishonest, fraudulent or criminal act or omission by a person upon whom a bond is required pursuant to this section who acts alone or in combination with any other person. A bond required pursuant to this section may be in any form and may be paid for by the private professional guardian company.

3. A private professional guardian company shall obtain suitable insurance against burglary, robbery, theft and other hazards to which it may be exposed in the operation of its business.

4. A private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065, as applicable.

5. The surety bond obtained pursuant to subsection 4 must be in a form approved by a court of competent jurisdiction and the Division and conditioned that the applicant conduct his or her business in accordance with the requirements of this chapter. The bond must be made and executed by the principal and a surety company authorized to write bonds in this State.

6. A private professional guardian company shall at least annually prescribe the amount or penal sum of the bonds or policies of the company and designate the sureties and underwriters thereof, after considering all known elements and factors constituting a risk or hazard. The action must be recorded

in the minutes kept by the private professional guardian company and reported to the Commissioner.

7. The bond must cover all matters placed with the private professional guardian company during the term of the license or a renewal thereof.

8. An action may not be brought upon any bond after 2 years from the revocation or expiration of the license.

9. After 2 years, all liability of the surety or sureties upon the bond ceases if no action is commenced upon the bond.

Sec. 15. NRS 628B.550 is hereby amended to read as follows:

628B.550 1. The fiduciary relationship which exists between a private professional guardian and the ward of the private professional guardian may not be used for the private gain of the guardian other than the remuneration for fees and expenses. A private professional guardian may not incur any obligation on behalf of the guardianship that conflicts with the discharge of the duties of the private professional guardian.

2. Unless prior approval is obtained from a court of competent jurisdiction, a private professional guardian shall not:

(a) Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.

(b) Acquire an ownership, possessory, security or other pecuniary interest adverse to the ward.

(c) Be knowingly designated as a beneficiary on any life insurance policy or pension or benefit plan of the ward unless such designation was validly made by the ward before the adjudication of the person's incapacity.

(d) Directly or indirectly purchase, rent, lease or sell any property or services from or to any business entity in which the private professional guardian, or the spouse or relative of the guardian, is an officer, partner, director, shareholder or proprietor or in which such a person has any financial interest.

3. Any action taken by a private professional guardian which is prohibited by this section may be voided during the term of the guardianship or by the personal representative of the ward's estate. The private professional guardian is subject to removal and to imposition of personal liability through a proceeding for discharge, in addition to any other remedies otherwise available.

4. A court shall not appoint a private professional guardian that ~~is~~ *does not* ~~[licensed pursuant to this chapter]~~ *meet the requirements set forth in NRS 159.0595* as the guardian of a person or estate. The court must review each guardianship involving a private professional guardian on the anniversary date of the appointment of the private professional guardian. If a private professional guardian does not ~~[hold a current license]~~ *meet the requirements set forth in NRS 159.0595*, the court must replace the guardian until such time as the private professional guardian ~~[obtains the necessary license]~~ *meets such requirements*.

5. ~~{The provisions of NRS 159.076 regarding summary administration do not apply to a private professional guardian.~~

~~6. A licensee~~ A private professional guardian shall file any report required by the court in a timely manner.

Sec. 16. NRS 628B.560 is hereby amended to read as follows:

628B.560 1. Except as otherwise provided in NRS 159.076, a ~~licensee~~ private professional guardian company shall maintain a separate guardianship account for each ward into which all money received for the benefit of the ward must be deposited ~~{}~~, unless otherwise ordered by the court ~~for~~ for a substantiated reason. Each guardianship account must be maintained in an insured bank or credit union located in this State, be held in a name which is sufficient to distinguish it from the personal or general checking account of the ~~licensee~~ private professional guardian company and be designated as a guardianship account. Each guardianship account must at all times account for all money received for the benefit of the ward and account for all money dispersed for the benefit of the ward, and no disbursement may be made from the account except as authorized under chapter 159 of NRS or as authorized by court order.

2. Each ~~licensee~~ private professional guardian company shall keep a record of all money deposited in each guardianship account maintained for a ward, which must clearly indicate the date and from whom the money was received, the date the money was deposited, the dates of withdrawals of money and other pertinent information concerning the transactions. Records kept pursuant to this subsection must be maintained for at least 6 years after the completion of the last transaction concerning the account. The records must be maintained at the premises in this State at which the ~~licensee~~ private professional guardian company is authorized to conduct business.

3. The Commissioner or his or her designee may conduct an examination of the guardianship accounts and records relating to wards of each private professional guardian company licensed pursuant to this chapter at any time to ensure compliance with the provisions of this chapter.

4. During the first year a private professional guardian company is licensed in this State, the Commissioner or his or her designee may conduct any examinations deemed necessary to ensure compliance with the provisions of this chapter.

5. If there is evidence that a private professional guardian company has violated a provision of this chapter, the Commissioner or his or her designee may conduct additional examinations to determine whether a violation has occurred.

6. Each ~~licensee~~ private professional guardian company shall authorize the Commissioner or his or her designee to examine all books, records, papers and effects of the private professional guardian company.

7. If the Commissioner determines that the records of a ~~licensee~~ private professional guardian company are not maintained in accordance with subsections 1 and 2, the Commissioner may require the ~~licensee~~ private

professional guardian company to submit, within 60 days, an audited financial statement prepared from the records of the ~~{licensee}~~ *private professional guardian company* by a certified public accountant who holds a certificate to engage in the practice of public accounting in this State. The Commissioner may grant a reasonable extension of time for the submission of the financial statement if an extension is requested before the statement is due.

8. Upon the request of the Division, a ~~{licensee}~~ *private professional guardian company* must provide to the Division copies of any documents reviewed during an examination conducted by the Commissioner or his or her designee pursuant to subsection 4, 5 or 6. If the copies are not provided, the Commissioner may subpoena the documents.

9. For each examination of the books, papers, records and effects of a private professional guardian company that is required or authorized pursuant to this chapter, the Commissioner shall charge and collect from the private professional guardian company a fee for conducting the examination and preparing a report of the examination based upon the rate established by regulation pursuant to NRS 658.101. Failure to pay the fee within 30 days after receipt of the bill is grounds for revoking the license of the private professional guardian company.

10. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 17. NRS 628B.730 is hereby amended to read as follows:

628B.730 1. If the Commissioner has reason to believe that grounds for the revocation or suspension of a license exist, the Commissioner shall give at least 20 days' written notice to the ~~{licensee}~~ *private professional guardian company* stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the ~~{licensee}~~ *private professional guardian company* by registered or certified mail.

(b) Impose upon the ~~{licensee}~~ *private professional guardian company* an administrative fine of not more than \$10,000 for each violation by the ~~{licensee}~~ *private professional guardian company* of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The ~~{licensee}~~ *private professional guardian company* has failed to pay the annual license fee;

(b) The ~~licensee~~ *private professional guardian company* has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Commissioner;

(c) The ~~licensee~~ *private professional guardian company* has failed to pay any applicable state or local tax as required;

(d) Any fact or condition exists which would have justified the Commissioner in denying the original application for a license pursuant to the provisions of this chapter; or

(e) The ~~licensee~~ *private professional guardian company*:

(1) Failed to open an office for the conduct of the business authorized by ~~this or her~~ *its* license within 180 days after the date the license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 30 consecutive days without good cause therefor.

4. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

5. If the Commissioner enters an order suspending or revoking a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.

Sec. 18. NRS 628B.920 is hereby amended to read as follows:

628B.920 A person who ~~An entity that~~ does not have a license issued pursuant to this chapter shall not:

1. Use the term "private professional guardian" or "guardianship services" as a part of ~~this or her~~ *its* the person's business name.

2. Advertise or use any sign which includes the term "private professional guardian."

Sec. 19. NRS 628B.930 is hereby amended to read as follows:

628B.930 1. The Commissioner shall conduct an investigation if he or she receives a verified complaint that ~~an unlicensed~~ a person ~~entity~~ *who does not meet the requirements set forth in NRS 159.0595* is engaging in ~~an~~ any activity ~~for which a license is required pursuant to this chapter,~~ relating to service as a private professional guardian.

2. If the Commissioner determines that ~~an unlicensed~~ a person ~~entity~~ *who does not meet the requirements set forth in NRS 159.0595* is engaged in ~~an~~ any activity ~~for which a license is required pursuant to this chapter,~~ relating to service as a private professional guardian, the Commissioner shall:

(a) Issue and serve on the person ~~entity~~ an order to cease and desist from engaging in the activity until such time as the person ~~entity~~ obtains a license issued by the Commissioner, meets the requirements set forth in NRS 159.0595; and

(b) Send a copy of the order to each district court in this State.

3. If a person ~~an entity~~ upon whom ~~which~~ an order to cease and desist is served pursuant to subsection 2 does not comply with the order within 30 days after the service of the order, the Commissioner shall, after providing to the person ~~entity~~ notice and an opportunity for a hearing:

(a) Impose upon the person ~~entity~~ an administrative fine of \$10,000; or

(b) Enter into a written agreement with the person ~~entity~~ pursuant to which the person ~~entity~~ agrees to cease and desist from engaging in any activity in this State ~~[for which a license is required]~~ relating to ~~the business of~~ service as a private professional guardian and impose upon the person ~~entity~~ an administrative fine of not less than \$5,000 and not more than \$10,000.

4. The Commissioner shall bring suit in the name and on behalf of the State of Nevada against a person ~~an entity~~ upon whom ~~which~~ an administrative fine is imposed pursuant to subsection 3 to recover the amount of the administrative fine if:

(a) No petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after notice of the imposition of the fine; or

(b) A petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after the exhaustion of any right of appeal in the courts of this State resulting in a final determination that upholds the imposition of the fine.

5. A person's ~~Any~~ liability for an administrative fine is in addition to any other penalty provided for in this chapter.

Sec. 20. ~~[NRS 628B.940 is hereby amended to read as follows:~~
~~628B.940 1. If the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to any action provided for in this chapter and chapter 233B of NRS and without prejudice thereto, enter an order requiring the person to cease and desist or to refrain from such violation. If the Commissioner enters such an order pursuant to this subsection, the Commissioner shall send a copy of the order to each district court in this State.~~

~~2. The Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, irreparable harm and lack of an adequate remedy at law will be presumed and an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper. The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the issuance ex parte of a temporary restraining order.~~

~~3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of [the person,] a private professional guardian company, including books, papers, documents and records pertaining thereto, or so much thereof as a court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business, whether such books, papers, documents and records are in the possession of the [person,] private professional guardian company, a registered agent acting on behalf of the [person] private~~

~~professional guardian company or any other person. If a receiver is appointed and qualified, the receiver has such powers and duties relating to the custody, collection, administration, winding up and liquidation of such property and business as may be conferred upon the receiver by the court.~~

~~4. If a receiver is appointed pursuant to subsection 3, the receiver shall remit to the owners, members or shareholders of the private professional guardian company any amount of equity of the private professional guardian company remaining after the discharge of the liabilities and payment of the normal, prudent and reasonable expenses of the receivership.~~ (Deleted by amendment.)

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 703 to Assembly Bill No. 150 removes the requirement for individual guardians to be licensed and instead requires private-professional guardian companies to be licensed. Individual guardians still must meet other requirements such as fingerprinting and certification. It also requires guardianship companies to require bonds for private-professional guardians under their employ and requires the Commissioner of Financial Institutions to conduct an investigation if he or she receives a verified complaint that a person who does not meet the requirements necessary to serve as a private-professional guardian is engaging in any activity relating to service as a private-professional guardian.

Amendment adopted.

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

Assembly Bill No. 234.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 674.

SUMMARY—Revises provisions governing motor carriers. (BDR 58-651)

AN ACT relating to motor carriers; requiring certain motor carriers of passengers which transport certain persons with disabilities to ensure that each vehicle used for the transport is equipped with first-aid equipment and to provide each driver of the vehicle training in first aid and cardiopulmonary resuscitation; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, common motor carriers of passengers and contract motor carriers of passengers are subject to supervision and regulation by the Nevada Transportation Authority, with some exceptions. (NRS 706.166)

Section 1 of this bill requires a common motor carrier of passengers, contract motor carrier of passengers and any other person or entity, other than a taxicab motor carrier, providing a means of public conveyance and transportation operating in this State and which transports for compensation certain persons with disabilities, commonly referred to as "paratransit services," to ensure that: (1) each vehicle used in the transport is equipped with a first-aid kit; and (2)

each driver of a vehicle used for the transport receives training in first aid and cardiopulmonary resuscitation. Section 1 also requires the carrier, person or entity to: (1) provide the training in first aid and cardiopulmonary resuscitation or arrange for its provision for the driver; (2) pay for the training; and (3) compensate each driver for the time spent receiving the training. Section 1 provides an exemption from these requirements for a taxicab motor carrier or a transportation network company which provides paratransit services under a contract with any entity required to provide such services. Existing law makes a violation of this requirement a misdemeanor. (NRS 706.756) Sections 2-5 of this bill make conforming changes. ~~[Section 6 of this bill provides that the provisions of this bill do not apply during the current term of any employment agreement between the motor carrier, person or entity and the employee drivers of the motor carrier, person or entity entered into before the effective date of this bill, but do apply to any extension or renewal of such an agreement and to any such agreement entered into on or after the effective date of this bill.]~~

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~1A~~ Except as otherwise provided in subsection 3, a common motor carrier of passengers, contract motor carrier of passengers or other person or entity providing a means of public conveyance and transportation operating within this State which, pursuant to the requirements of 49 C.F.R. § 37.121, transports for compensation within this State persons with disabilities who are eligible pursuant to 49 C.F.R. § 37.123 for the transportation shall ensure that:

(a) *Each vehicle used for the transport is equipped with a first-aid kit; and*
(b) *Each driver of a vehicle used for the transport receives training in the use and administration of first aid and cardiopulmonary resuscitation that is conducted in accordance with the standards of the American Heart Association, the American Red Cross or any similar organization that includes certification in:*

- (1) *First aid; and*
- (2) *Cardiopulmonary resuscitation.*

2. *A common motor carrier of passengers, contract motor carrier of passengers or other person or entity who employs a driver required to receive the training required pursuant to paragraph (b) of subsection 1 must:*

- (a) *Provide the training or arrange for its provision for the driver;*
- (b) *Pay for the training; and*
- (c) *Compensate each driver who receives the training at his or her regular rate of pay for the time the driver spent attending the training.*

3. The provisions of this section do not apply to a taxicab motor carrier or transportation network company as defined in NRS 706A.050, who undertakes

the transportation described in subsection 1 under a contract with an entity required by 49 C.F.R. § 37.121 to provide such transportation.

Sec. 2. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 706.156 is hereby amended to read as follows:

706.156 1. All common and contract motor carriers and brokers are hereby declared to be, to the extent provided in this chapter:

- (a) Affected with a public interest; and
- (b) Subject to NRS 706.011 to 706.791, inclusive ~~{,}~~, *and section 1 of this act.*

2. A purchaser or broker of transportation services which are provided by a common motor carrier who holds a certificate of public convenience and necessity may resell those services, in combination with other services and facilities that are not related to transportation, but only in a manner complying with the scope of authority set forth in the certificate of the common motor carrier. The Authority shall not prohibit or restrict such a purchaser or broker from reselling those transportation services to any person based upon that person's affiliation, or lack of affiliation, with any group.

Sec. 4. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to:

- (a) Ambulances;
- (b) Hearses; or
- (c) Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.27495.

2. A common motor carrier that enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of:

- (a) Regular routes and fixed schedules;
- (b) Nonemergency medical transportation of persons to facilitate their participation in jobs and day training services as defined in NRS 435.176 if the transportation is available upon request and without regard to regular routes or fixed schedules;
- (c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or
- (d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

3. Under any agreement for a system of public transit that provides for the transportation of passengers that is described in subsection 2:

- (a) The public entity shall provide for any required safety inspections; or
- (b) If the public entity is unable to do so, the Authority shall provide for any required safety inspections.

4. In addition to the requirements of subsection 3, under an agreement for a system of public transit that provides for the transportation of passengers that is described in:

(a) Paragraph (a) of subsection 2, the public entity shall establish the routes and fares.

(b) Paragraph (c) or (d) of subsection 2, the common motor carrier:

(1) May provide transportation to any passenger who can board a vehicle with minimal assistance from the operator of the vehicle.

(2) ~~Shall~~ *Except as otherwise provided in section 1 of this act, shall not* offer medical assistance as part of its transportation service.

5. In a county whose population:

(a) Is less than 700,000, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

(b) Is 700,000 or more, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but:

(1) Only if the nonprofit carrier:

(I) Does not charge for transportation services;

(II) Provides transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.27495; or

(III) Enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission; and

(2) Such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

6. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

7. Before an incorporated city or a county enters into an agreement with a common motor carrier for a system of public transit that provides for the transportation of passengers that is described in paragraph (c) or (d) of subsection 2 in an area of the incorporated city or an area of the county, it must determine that:

(a) There are no other common motor carriers of passengers who are authorized to provide such services in that area; or

(b) Although there are other common motor carriers of passengers who are authorized to provide such services in the area, the common motor carriers of

passengers do not wish to provide, or are not capable of providing, such services.

Sec. 5. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, *and section 1 of this act*, apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, *and section 1 of this act* or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~{ }~~, *and section 1 of this act*;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~{ }~~, *and section 1 of this act*;

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~{ }~~, *and section 1 of this act*;

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

➡ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

➡ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 6. ~~{The amendatory provisions of this act:~~

~~1. Do not apply during the current term of any employment agreement entered into before the effective date of this act between a motor carrier, person or other entity subject to the amendatory provisions of section 1 of this act and drivers who are employees of the motor carrier, person or other entity; and~~

~~2. Apply to any extension or renewal of such an agreement and to any such agreement entered into on or after the effective date of this act.}~~ (Deleted by amendment.)

Sec. 7. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 8. This act becomes effective ~~{upon passage and approval.}~~ on January 1, 2020.

Senator Farley moved the adoption of the amendment.

Remarks by Senator Farley.

Amendment No. 674 to Assembly Bill No. 234 changes the effective date to January 1, 2020; removes section 6, pertaining to current employment agreements, which is not needed because of the effective date change; and adds provisions to exclude taxicabs and transportation companies from the provisions of the bill.

Amendment adopted.

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

Assembly Bill No. 321.

Bill read second time.

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

Amendment No. 695.

SUMMARY—Authorizes a county or city to require a hosting platform and certain users of hosting platforms to provide certain reports and information to a county or city. (BDR 20-1138)

AN ACT relating to local government; authorizing the board of county commissioners of a county and the city council or governing body of an incorporated city to adopt an ordinance requiring certain hosting platforms and owners and lessees of property who use hosting platforms to submit quarterly reports to the county or city; prescribing the contents of such a report; authorizing the issuance of a subpoena to a hosting platform , owner or lessee for the production of certain documents, records or materials; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners of a county or the city council or governing body of an incorporated city to adopt an ordinance requiring the submission of quarterly reports by : (1) an online hosting platform that facilitates the rental of a residential unit or a room or space within a residential unit for the purposes of transient lodging ~~for~~ ; and (2) certain owners or lessees of residential units which use hosting platforms to facilitate such rentals. Under this bill, the quarterly report must include certain information concerning the rentals facilitated by the hosting platform in the county or city, as applicable, and the revenue from such rentals. This bill further requires the ordinance to authorize an agency of the county or city, as applicable, to issue a subpoena requiring a hosting platform , owner or lessee to produce documents, records or materials necessary for determining whether a rental of a residential unit or a room or space within a residential unit has violated the laws of this State or an ordinance adopted by the county or city in which the residential unit is located.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The board of county commissioners may adopt an ordinance requiring ~~for~~ :*

(a) A hosting platform that facilitates the rental of a residential unit in the county or a room or space within such a residential unit for the purposes of transient lodging to submit a quarterly report to an agency of the county ~~for~~ of

the information required by subsection 2 that is collected by the hosting platform.

(b) An owner or lessee which uses a hosting platform that facilitates the rental of a residential unit in the county or a room or space within such a residential unit for the purposes of transient lodging to submit a quarterly report to an agency of the county of any information required by subsection 2 regarding the rental that is not collected by the hosting platform.

2. The report required by subsection 1 must state ~~f-1~~, for the quarter:

(a) The number of bookings, listings, owners and lessees for the county;

(b) The average number of bookings per listing for the county;

(c) ~~The annual~~ Current year-to-date booking value for the county;

(d) Current year-to-date revenue collected ~~per~~ from all rentals through the hosting platform in the county, disaggregated by owner or lessee ; ~~for the county~~ and

~~##d##~~ (e) The average length of a rental in the county.

3. An ordinance adopted pursuant to subsection 1 must authorize an agency of the county to issue subpoenas for the production of documents, records or materials ~~necessary~~ relevant for determining whether a residential unit in the county or a room or space within such a residential unit has been rented in violation of any law of this State or an ordinance adopted by the board of county commissioners of the county. The ordinance must provide that such a subpoena may be issued only if:

(a) There is evidence sufficient to support a reasonable belief that a residential unit in the county or a room or space within such a residential unit has been rented or is being rented in violation of any law of this State or an ordinance adopted by the board of county commissioners of the county;

(b) The subpoena identifies the rental alleged to be in violation of any law of this State or an ordinance adopted by the board of county commissioners of the county and the provision of law or ordinance allegedly violated.

➔ A subpoena issued pursuant to ~~this subsection~~ the ordinance must be mailed ~~to the hosting platform~~ by regular and certified mail ~~f-1~~ to the hosting platform or, if applicable, the owner or lessee who was required to file a quarterly report regarding the rental pursuant to the ordinance.

4. An ordinance adopted pursuant to subsection 1 must require ~~f-a~~ :

(a) A hosting platform to whom a subpoena has been issued pursuant to the ordinance to:

~~##a##~~ (1) Provide notice of the subpoena to the user of the hosting platform who provided the rental identified in the subpoena.

~~##b##~~ (2) Produce any subpoenaed books, papers or documents not later than 21 days after providing the notice required by ~~paragraph (a)~~ subparagraph (1) unless otherwise ordered by a court.

(b) An owner or lessee of a rental to whom a subpoena has been issued pursuant to the ordinance to produce any subpoenaed books, papers or documents not later than 21 days after the issuance of the subpoena, unless otherwise ordered by a court.

5. ~~If a hosting platform that~~ person to whom a subpoena has been issued ~~[a subpoena]~~ pursuant to an ordinance adopted pursuant to subsection 1 refuses to produce any document, record or material that the subpoena requires, the agency of the county issuing the subpoena may apply to the district court for the judicial district in which the county is located for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.

6. As used in this section:

(a) "Hosting platform" means a person who, for a fee or other charge, provides on an Internet website an online platform that facilitates the rental of a residential unit or a room or space within a residential unit by an owner or lessee of the residential unit for the purposes of transient lodging, including, without limitation, through advertising, matchmaking or other means.

(b) "Residential unit" means a single-family residence or an individual residential unit within a larger building, including, without limitation, an apartment, condominium, townhouse or duplex. The term does not include a timeshare or other property subject to the provisions of chapter 119A of NRS.

Sec. 2. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The city council or other governing body of an incorporated city may adopt an ordinance requiring ~~for~~ :

(a) A hosting platform that facilitates the rental of a residential unit in the incorporated city or a room or space within such a residential unit for the purposes of transient lodging to submit a quarterly report to an agency of the incorporated city of the information required by subsection 2 that is collected by the hosting platform.

(b) An owner or lessee which uses a hosting platform that facilitates the rental of a residential unit in the county or a room or space within such a residential unit for the purposes of transient lodging to submit a quarterly report to an agency of the incorporated city of any information required by subsection 2 regarding the rental that is not collected by the hosting platform.

2. The report required by subsection 1 must state ~~for~~ for the quarter:

(a) The number of bookings, listings, owners and lessees for the incorporated city;

(b) The average number of bookings per listing for the incorporated city;

(c) ~~The annual revenues~~ Current year-to-date booking value for the incorporated city;

(d) Current year-to-date revenue collected ~~per~~ from all rentals through the hosting platform in the incorporated city, disaggregated by owner or lessee ~~for the incorporated city;~~ and

~~(d)~~ (e) The average length of a rental in the incorporated city.

3. An ordinance adopted pursuant to subsection 1 must authorize an agency of the incorporated city to issue subpoenas for the production of documents, records or materials ~~necessary~~ relevant for determining whether

a residential unit in the incorporated city or a room or space within such a residential unit has been rented in violation of any law of this State or an ordinance adopted by the city council or governing body of the incorporated city. The ordinance must provide that such a subpoena may be issued only if:

(a) There is evidence sufficient to support a reasonable belief that a residential unit in the incorporated city or a room or space within a residential unit has been rented or is being rented in violation of any law of this State or an ordinance adopted by the city council or governing body of the incorporated city;

(b) The subpoena identifies the rental alleged to be in violation of any law of this State or an ordinance adopted by the city council or governing body of the incorporated city and the provision of law or ordinance allegedly violated.

➔ A subpoena issued pursuant to ~~this subsection~~ the ordinance must be mailed ~~to the hosting platform~~ by regular and certified mail ~~to the hosting platform~~ or, if applicable, the owner or lessee who was required to file a quarterly report regarding the rental pursuant to the ordinance.

4. An ordinance adopted pursuant to subsection 1 must require ~~for~~ :

(a) A hosting platform to whom a subpoena has been issued to:

~~((a))~~ (1) Provide notice of the subpoena to the user of the hosting platform who provided the rental identified in the subpoena.

~~((b))~~ (2) Produce any subpoenaed books, papers or documents not later than 21 days after providing the notice required by ~~paragraph (a))~~ subparagraph (1) unless otherwise ordered by a court.

(b) An owner or lessee of a rental to whom a subpoena has been issued pursuant to the ordinance to produce any subpoenaed books, papers or documents not later than 21 days after the issuance of the subpoena, unless otherwise ordered by a court.

5. If a ~~hosting platform that~~ person to whom a subpoena has been issued ~~a subpoena~~ pursuant to an ordinance adopted pursuant to subsection 1 refuses to produce any document, record or material that the subpoena requires, the agency of the incorporated city issuing the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.

6. As used in this section:

(a) "Hosting platform" means a person who, for a fee or other charge, provides on an Internet website an online platform that facilitates the rental of a residential unit or a room or space within a residential unit by an owner or lessee of the residential unit for the purposes of transient lodging, including, without limitation, through advertising, matchmaking or other means.

(b) "Residential unit" means a single-family residence or an individual residential unit within a larger building, including, without limitation, an apartment, condominium, townhouse or duplex. The term does not include a timeshare or other property subject to the provisions of chapter 119A of NRS.

Sec. 3. This act becomes effective on July 1, 2017.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Amendment No. 695 to Assembly Bill No. 321 clarifies that timeshares are not subject to the provisions of the bill. The amendment also requires an owner or lessee of certain transient lodging to provide certain information in a quarterly report to an agency of the county if that information is not collected and reported by a hosting platform. Finally, the amendment adds certain information to that which is to be reported quarterly by the hosting platform or the owner or lessee of that transient lodging.

Amendment adopted.

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

Assembly Bill No. 322.

Bill read second time and ordered to third reading.

Assembly Bill No. 415.

Bill read second time.

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

Amendment No. 740.

SUMMARY—Provides for the acceptance of a tribal identification card in certain circumstances. (BDR 18-366)

AN ACT relating to the identification of persons; authorizing the use of a tribal identification card for various purposes; requiring a business that accepts a driver's license for the purpose of identification to also accept a tribal identification card for that purpose ~~if~~ unless otherwise provided by any federal law or regulation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes state and local governmental entities to accept a consular identification card for the purpose of identifying a person under certain circumstances. (NRS 232.006, 237.200) Sections 1 and 7 of this bill similarly authorize state and local governmental entities to accept a tribal identification card issued by a tribal government for the purpose of identifying a person if the tribal identification card meets certain requirements. Section 10 of this bill prohibits a business that accepts a driver's license or identification card issued by the Department of Motor Vehicles for the purpose of identifying a person from refusing to accept a tribal identification card for the same purpose ~~if~~ unless the business reasonably believes that a federal law or regulation requires the use of a different form of identification. Sections 2-6, 8, 9 and 11-14 of this bill revise various provisions of existing law to provide for the use of a tribal identification card as proof of identity.

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

Section 1. NRS 232.006 is hereby amended to read as follows:

232.006 1. Except as otherwise provided in subsection 2 and NRS 483.290, 483.860 and 486.081, with respect to any activity or transaction in which a state agency accepts an identification card issued by the Department

of Motor Vehicles to identify a person, the state agency may also accept a consular identification card *or tribal identification card* to identify a person.

2. The provisions of subsection 1 apply only to the presentation of a consular identification card *or tribal identification card* for purposes of identification and do not convey an independent right to receive benefits of any type.

3. *To be accepted pursuant to subsection 1 to identify a person, an identification card issued by a tribal government must contain:*

- (a) The full legal name of the holder of the card;*
- (b) The date of birth of the holder of the card;*
- (c) A unique number assigned to the holder of the card;*
- (d) A digital photograph of the full face of the holder of the card;*
- (e) The address of the principal residence of the holder of the card;*
- (f) A physical description of the holder of the card, including, without limitation, the height, weight, hair color and eye color of the holder of the card;*
- (g) The usual signature of the holder of the card;*
- (h) The date on which the card is issued; and*
- (i) A reference to the tribal government which issued the card.*

4. As used in this section:

(a) "Consular identification card" means an identification card issued by a consulate of a foreign government, which consulate is located within the State of Nevada.

(b) "Identification card issued by the Department of Motor Vehicles" means an identification card of the type described in NRS 483.810 to 483.890, inclusive.

(c) "State agency" means every public agency, bureau, board, commission, department or division of the Executive Department of State Government.

(d) *"Tribal government" has the meaning ascribed to it in NRS 239C.105.*

(e) *"Tribal identification card" means an identification card issued by a tribal government which satisfies the requirements of subsection 3.*

Sec. 2. NRS 97A.142 is hereby amended to read as follows:

97A.142 1. If a solicitor makes a firm offer of credit for a credit card to a person by mail and receives an acceptance of that offer which has a substantially different address listed for the person than the address to which the solicitor sent the offer, the solicitor shall verify that the person accepting the offer is the same person to whom the offer was made before sending the person the credit card.

2. A solicitor shall be deemed to have verified the address of a person pursuant to subsection 1 if the solicitor:

(a) Telephones the person at a telephone number appearing in a publicly available directory or database as the telephone number of the person to whom the solicitation was made and the person acknowledges his or her acceptance of the solicitation;

(b) Receives from the person accepting the offer of credit proof of identity in the form of an identification document, including, without limitation, a driver's license, ~~for~~ passport ~~or~~ *tribal identification card* which confirms that the person accepting the solicitation is the person to whom the solicitation was made; or

(c) Uses any other commercially reasonable means to confirm that the person accepting the solicitation is the person to whom the solicitation was made, including, without limitation, any means adopted in federal regulations.

3. For the purposes of this section:

(a) "Firm offer of credit" has the meaning ascribed to it in 15 U.S.C. § 1681a(l).

(b) "Solicitor" means a person who makes a firm offer of credit for a credit card by mail solicitation, but does not include an issuer or other creditor when that issuer or creditor relies on an independent third party to provide the solicitation services.

(c) *"Tribal identification card" means an identification card issued by a tribal government which satisfies the requirements of subsection 3 of NRS 232.006.*

Sec. 3. NRS 125D.180 is hereby amended to read as follows:

125D.180 1. In determining whether there is a credible risk of abduction of a child, the court shall consider any evidence that the petitioner or respondent:

- (a) Has previously abducted or attempted to abduct the child;
- (b) Has threatened to abduct the child;
- (c) Has recently engaged in activities that may indicate a planned abduction, including:
 - (1) Abandoning employment;
 - (2) Selling a primary residence;
 - (3) Terminating a lease;
 - (4) Closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities;
 - (5) Applying for a passport or visa or obtaining travel documents for the respondent, a family member or the child; or
 - (6) Seeking to obtain the child's birth certificate or school or medical records;
 - (d) Has engaged in domestic violence, stalking, or child abuse or neglect;
 - (e) Has refused to follow a child custody determination;
 - (f) Lacks strong familial, financial, emotional or cultural ties to the State or the United States;
 - (g) Has strong familial, financial, emotional or cultural ties to another state or country;
 - (h) Is likely to take the child to a country that:

(1) Is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;

(2) Is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:

(I) The Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country;

(II) Is noncompliant according to the most recent compliance report issued by the United States Department of State; or

(III) Lacks legal mechanisms for immediately and effectively enforcing a return order pursuant to the Hague Convention on the Civil Aspects of International Child Abduction;

(3) Poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;

(4) Has laws or practices that would:

(I) Enable the respondent, without due cause, to prevent the petitioner from contacting the child;

(II) Restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status or religion; or

(III) Restrict the child's ability legally to leave the country after the child reaches the age of majority because of the child's gender, nationality or religion;

(5) Is included by the United States Department of State on a current list of state sponsors of terrorism;

(6) Does not have an official United States diplomatic presence in the country; or

(7) Is engaged in active military action or war, including a civil war, to which the child may be exposed;

(i) Is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;

(j) Has had an application for United States citizenship denied;

(k) Has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a social security card, a driver's license, a *tribal identification card* or other government-issued identification card or has made a misrepresentation to the United States Government;

(l) Has used multiple names to attempt to mislead or defraud; or

(m) Has engaged in any other conduct the court considers relevant to the risk of abduction.

2. In the hearing on a petition pursuant to the provisions of this chapter, the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the

child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.

3. If the court finds during the hearing on the petition that the respondent's conduct is intended to avoid imminent harm to the child or respondent, the court shall not issue an abduction prevention order.

Sec. 4. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

- (a) The name and address of the petitioner.
- (b) The name, date of birth and current address of the proposed ward.
- (c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; ~~{or}~~
- (5) A valid passport number ~~{-}~~ ; or
- (6) A valid tribal identification card number.

➡ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which the proposed ward will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; ~~{or}~~
- (5) A valid passport number ~~{-}~~ ; *or*
- (6) *A valid tribal identification card number.*

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which the proposed guardian was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. If the proposed ward is an adult, the documentation must include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs, a letter signed by any governmental agency in this State which conducts investigations or a certificate signed by any other person whom the court finds qualified to execute a certificate, stating:

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or herself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance; and

(2) If the proposed ward is determined to have the limited capacity to consent to the appointment of a special guardian, a written consent to the appointment of a special guardian from the ward.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the relationship of the petitioner to the proposed ward or to the proposed ward's family or friends, if any, and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) If the guardianship is sought as the result of an investigation of a report of abuse, neglect, exploitation, isolation or abandonment of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.

(q) Whether the proposed ward or the proposed guardian is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

(t) Whether the proposed guardian has filed for or received protection under the federal bankruptcy laws within the immediately preceding 7 years.

3. Before the court makes a finding pursuant to NRS 159.054, a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his or her safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.

Sec. 5. NRS 159.2025 is hereby amended to read as follows:

159.2025 If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this State, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register and the reason for registration, may register the guardianship order in this State by filing as a foreign judgment in a court, in any appropriate county of this State:

1. Certified copies of the order and letters of office; and
2. A copy of the guardian's driver's license, passport, *tribal identification card* or other valid photo identification card in a sealed envelope.

Sec. 6. NRS 202.2493 is hereby amended to read as follows:

202.2493 1. A person shall not sell, distribute or offer to sell cigarettes, any smokeless product made or derived from tobacco or any alternative nicotine product in any form other than in an unopened package which originated with the manufacturer and bears any health warning required by federal law. A person who violates this subsection shall be punished by a fine of \$100 and a civil penalty of \$100. As used in this subsection, "smokeless

product made or derived from tobacco" means any product that consists of cut, ground, powdered or leaf tobacco and is intended to be placed in the oral or nasal cavity.

2. Except as otherwise provided in subsections 3, 4 and 5, it is unlawful for any person to sell, distribute or offer to sell cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products to any child under the age of 18 years. A person who violates this subsection shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500.

3. A person shall be deemed to be in compliance with the provisions of subsection 2 if, before the person sells, distributes or offers to sell to another, cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products, the person:

(a) Demands that the other person present a valid driver's license , *tribal identification card* or other written or documentary evidence which shows that the other person is 18 years of age or older;

(b) Is presented a valid driver's license , *tribal identification card* or other written or documentary evidence which shows that the other person is 18 years of age or older; and

(c) Reasonably relies upon the driver's license , *tribal identification card* or written or documentary evidence presented by the other person.

4. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport tobacco, products made or derived from tobacco, vapor products or alternative nicotine products, in the course of the child's lawful employment, provide tobacco, products made or derived from tobacco, vapor products or alternative nicotine products to the child.

5. With respect to any sale made by an employee of a retail establishment, the owner of the retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if the owner:

(a) Had no actual knowledge of the sale; and

(b) Establishes and carries out a continuing program of training for employees which is reasonably designed to prevent violations of subsection 2.

6. The owner of a retail establishment shall, whenever any product made or derived from tobacco, vapor product or alternative nicotine product is being sold or offered for sale at the establishment, display prominently at the point of sale:

(a) A notice indicating that:

(1) The sale of cigarettes, other tobacco products, vapor products and alternative nicotine products to minors is prohibited by law; and

(2) The retailer may ask for proof of age to comply with this prohibition; and

(b) At least one sign that complies with the requirements of NRS 442.340.

↪ A person who violates this subsection shall be punished by a fine of not more than \$100.

7. It is unlawful for any retailer to sell cigarettes through the use of any type of display:

(a) Which contains cigarettes and is located in any area to which customers are allowed access; and

(b) From which cigarettes are readily accessible to a customer without the assistance of the retailer,

↪ except a vending machine used in compliance with NRS 202.2494. A person who violates this subsection shall be punished by a fine of not more than \$500.

8. Any money recovered pursuant to this section as a civil penalty must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2494.

Sec. 7. NRS 237.200 is hereby amended to read as follows:

237.200 1. Except as otherwise provided in subsection 2, with respect to any activity or transaction in which a local government accepts an identification card issued by the Department of Motor Vehicles to identify a person, the local government may also accept a consular identification card *or tribal identification card* to identify a person.

2. The provisions of subsection 1 apply only to the presentation of a consular identification card *or tribal identification card* for purposes of identification and do not convey an independent right to receive benefits of any type.

3. *To be accepted pursuant to subsection 1 to identify a person, an identification card issued by a tribal government must contain:*

(a) The full legal name of the holder of the card;

(b) The date of birth of the holder of the card;

(c) A unique number assigned to the holder of the card;

(d) A digital photograph of the full face of the holder of the card;

(e) The address of the principal residence of the holder of the card;

(f) A physical description of the holder of the card, including, without limitation, the height, weight, hair color and eye color of the holder of the card;

(g) The usual signature of the holder of the card;

(h) The date on which the card is issued; and

(i) A reference to the tribal government which issued the card.

4. As used in this section:

(a) "Consular identification card" means an identification card issued by a consulate of a foreign government, which consulate is located within the State of Nevada.

(b) "Identification card issued by the Department of Motor Vehicles" means an identification card of the type described in NRS 483.810 to 483.890, inclusive.

(c) "Local government" has the meaning ascribed to it in NRS 237.050.

(d) "Tribal government" has the meaning ascribed to it in NRS 239C.105.

(e) "Tribal identification card" means an identification card issued by a tribal government which satisfies the requirements of subsection 3.

Sec. 8. NRS 453.357 is hereby amended to read as follows:

453.357 1. A retail distributor shall maintain a logbook.

2. At the time of the sale or transfer of a product that is a precursor to methamphetamine, a retail distributor shall ensure that the following information is entered in the logbook:

- (a) The name of the product sold or transferred;
- (b) The quantity of the product sold or transferred;
- (c) The name and address of the purchaser or transferee;
- (d) The date and time of the sale or transfer; and
- (e) The type and number of the identification presented by the purchaser or transferee pursuant to paragraph (a) of subsection 3.

3. A retail distributor shall not sell or transfer a product that is a precursor to methamphetamine unless:

- (a) The prospective purchaser or transferee:

(1) Presents an identification card which provides a photograph and which is issued by the Federal Government, this State or any other state ~~or~~ *or a tribal government*, or a document that, with respect to identification, is considered acceptable pursuant to 21 U.S.C. § 830(e)(1); and

- (2) Signs his or her name in the logbook.

- (b) The retail distributor:

(1) Determines that the name entered in the logbook corresponds to the name provided on the identification presented by the prospective purchaser or transferee; and

(2) Has consulted the real-time, stop sale system, if required pursuant to NRS 639.440.

4. The retail distributor must include in the logbook or otherwise post or provide to a prospective purchaser or transferee a notice that entering a false statement or representation in the logbook may subject the prospective purchaser or transferee to criminal penalties under state law, as set forth in NRS 453.359, and under federal law, as set forth in 18 U.S.C. § 1001.

5. A retail distributor shall maintain each entry in the logbook for not less than 2 years after the date on which the entry is made.

6. A retail distributor shall not access, use or share the information in the logbook unless the accessing, using or sharing of the information is allowed by federal law or unless the purpose of accessing, using or sharing the information is to ensure compliance with this chapter or to facilitate a product recall to protect the health and safety of the public.

7. Upon a request, which is made for the purpose of enforcing the provisions of NRS 453.352 to 453.359, inclusive, or 639.400 to 639.450, inclusive, by a law enforcement agency of this State or a political subdivision thereof or a law enforcement agency of the Federal Government, a retail

distributor shall disclose the information in the logbook to the law enforcement agency.

Sec. 9. NRS 476.220 is hereby amended to read as follows:

476.220 1. Except as otherwise provided in subsection 2, any person who distributes:

(a) Black powder to a person under the age of 18 years; or

(b) Smokeless gunpowder to a person:

(1) Under the age of 18 years; or

(2) Under the age of 21 years, if the smokeless gunpowder is intended for use other than in a rifle or shotgun,

↪ is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

2. A person shall be deemed to be in compliance with the provisions of subsection 1 if, before the person distributes black powder or smokeless gunpowder to another person, the person:

(a) Asks the other person to declare the intended use for the black powder or smokeless gunpowder;

(b) Demands that the other person present a valid driver's license, *tribal identification card* or other written or documentary evidence which shows that the other person meets the appropriate age requirement set forth in subsection 1;

(c) Is presented a valid driver's license, *tribal identification card* or other written or documentary evidence which shows that the other person meets the appropriate age requirement set forth in subsection 1; and

(d) Reasonably relies upon the declaration of intended use by the other person and the driver's license, *tribal identification card* or other written or documentary evidence presented by the other person.

3. As used in this section ~~[-"distribute"]~~ :

(a) "Distribute" has the meaning ascribed to it in NRS 476.010.

(b) "Tribal identification card" means an identification card issued by a tribal government which satisfies the requirements of subsection 3 of NRS 232.006.

Sec. 10. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a business accepts a driver's license or identification card issued by the Department of Motor Vehicles for the purpose of identifying a customer, the business shall not refuse to accept a tribal identification card for the same purpose ~~+~~ unless the business reasonably determines that a federal law or regulation requires the use of a different form of identification.*

2. *As used in this section, "tribal identification card" means an identification card issued by a tribal government which satisfies the requirements of subsection 3 of NRS 232.006.*

Sec. 11. NRS 597.940 is hereby amended to read as follows:

597.940 1. Except as otherwise provided in this subsection, a business shall not, without the customer's consent, record the account number of any of

a customer's credit cards on the customer's check or draft as a condition of accepting that check or draft. This subsection does not prohibit:

(a) The business from requiring the customer to produce reasonable forms of positive identification other than a credit card, including, without limitation:

(1) A driver's license;

(2) An identification card issued by the Department of Motor Vehicles;
~~for~~

(3) A *tribal identification card*; or

(4) A consular identification card,

↪ as a condition of accepting a check or draft.

(b) The business from requesting the customer to display a credit card as an indicia of creditworthiness or financial responsibility, if the only information recorded by the business concerning the credit card is the type of credit card displayed, the issuer of the card and the date the card expires.

(c) The business from requesting the customer to record the account number of his or her credit card on the check or draft with which payment on the credit card account is being made.

(d) The business from requesting the production of or recording of the account number of a credit card as a condition of cashing a check or draft if:

(1) The business has agreed with the issuer of the credit card to cash the checks or drafts as a service to the cardholders of the issuer;

(2) The issuer has agreed to guarantee any such check or draft so cashed;
and

(3) The cardholder has given actual, apparent or implied authority for the use of his or her account number for this purpose.

2. Except as otherwise provided in this subsection, a business shall not, without the customer's consent, record a customer's telephone number on the credit card sales slip as a condition of accepting his or her credit card. This subsection does not:

(a) Prohibit the recordation of personal identifying information required for a special purpose incidental to the use of the credit card, such as the delivery, shipping, servicing or installation of the purchased merchandise.

(b) Apply to a transaction in which the customer receives a cash advance against his or her credit card or to a transaction involving the use of preprinted spaces for personal identifying information that the business accepting the credit card has a contractual obligation to record in order to complete the transaction.

(c) Apply to a transaction in which the customer's purchase is made by the use of a device that electronically authorizes the use of the credit card and processes information relating thereto.

3. As used in this section, unless the context otherwise requires:

(a) "Consular identification card" means an identification card issued by a consulate of a foreign government, which consulate is located within the State of Nevada.

(b) "Credit card" has the meaning ascribed to it in NRS 205.630.

(c) "Identification card issued by the Department of Motor Vehicles" means an identification card of the type described in NRS 483.810 to 483.890, inclusive.

(d) *"Tribal identification card" means an identification card issued by a tribal government which satisfies the requirements of subsection 3 of NRS 232.006.*

Sec. 12. NRS 643.184 is hereby amended to read as follows:

643.184 A person who is required to display a license issued pursuant to the provisions of this chapter shall, upon the request of an authorized representative of the Board, provide to that representative identification in the form of a driver's license or identification card with a photograph that has been issued by a state, the District of Columbia or the United States ~~or~~ *or a tribal identification card issued by a tribal government which satisfies the requirements of subsection 3 of NRS 232.006.*

Sec. 13. NRS 644.208 is hereby amended to read as follows:

644.208 1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has not practiced hair braiding previously:

(1) Has completed a minimum of 250 hours of training and education as follows:

(I) Fifty hours concerning the laws of Nevada and the regulations of the Board relating to cosmetology;

(II) Seventy-five hours concerning infection control and prevention and sanitation;

(III) Seventy-five hours regarding the health of the scalp and the skin of the human body; and

(IV) Fifty hours of clinical practice; and

(2) Has passed the practical demonstration in hair braiding and written tests described in NRS 644.248.

(f) If the person has practiced hair braiding in this State on a person who is related within the sixth degree of consanguinity without a license and without charging a fee:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year on such a relative; and

(2) Has passed the practical demonstration in hair braiding and written tests described in NRS 644.248.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 2 by 2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States ~~or~~ *or a tribal identification card issued by a tribal government which satisfies the requirements of subsection 3 of NRS 232.006;*

(2) The birth certificate of the applicant; or

(3) The current passport issued to the applicant.

Sec. 14. NRS 644.209 is hereby amended to read as follows:

644.209 1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has practiced hair braiding in another state, has applied to the Board in proper form and paid a fee of \$200, and who:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has practiced hair braiding in another state in accordance with a license issued in that other state:

(1) Has submitted to the Board proof of the license; and

(2) Has passed the written tests described in NRS 644.248.

(f) If the person has practiced hair braiding in another state without a license and it is legal in that state to practice hair braiding without a license:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year; and

(2) Has passed the practical demonstration in hair braiding and written tests described in NRS 644.248.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 2 by 2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United

States ~~{;}~~ or a tribal identification card issued by a tribal government which satisfies the requirements of subsection 3 of NRS 232.006;

(2) The birth certificate of the applicant; or

(3) The current passport issued to the applicant.

Sec. 15. This act becomes effective on July 1, 2017.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Amendment No. 740 to Assembly Bill No. 415 allows certain types of businesses to decline the identification if a business reasonably determines that a federal law or regulation requires the use of a different form of identification.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 431.

Bill read second time.

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

Amendment No. 783.

SUMMARY—Revises provisions governing alcoholic beverages. (BDR 52-1018)

AN ACT relating to alcoholic beverages; revising provisions governing brew pubs; revising provisions governing a supplier of alcoholic beverages; revising provisions authorizing the operation of wineries in this State; revising provisions prohibiting a wholesaler dealer of alcoholic beverages from investing money in a retail liquor store; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person who is licensed to operate a brew pub to operate more than one such brew pub in a county but limits the person to manufacturing not more than 15,000 barrels for all of the brew pubs the person operates in that county in any calendar year. (NRS 597.230) Section 4 of this bill authorizes a person to operate one or more brew pubs in this State and increases the number of barrels of malt beverages that such a person may manufacture for all the brew pubs he or she operates in this State during a calendar year to 40,000 barrels. Section 4 additionally authorizes a person who operates one or more brew pubs in this State to transport malt beverages to a licensed person for the purpose of selling the malt beverages at a special event in this State. Section 3.5 of this bill defines a special event as an event that lasts not longer than 1 calendar day and that occurs at a farmers' market or at an event designated as a county fair. Section 4 further prohibits a person who operates a brew pub from selling at retail more than 5,000 barrels of malt beverages per calendar year and provides that of the 5,000 barrels, not more than 1,000 barrels may be sold in kegs.

Section 9.5 of this bill requires the Department of Taxation to adopt and enforce regulations necessary to monitor the quantity of malt beverages

manufactured pursuant to section 4. Section 10 of this bill specifies that a person licensed to operate a brew pub may not engage in any other activity not authorized pursuant to section 4 for which a license is required unless the person holds the license for that activity.

Existing law authorizes a winery that is federally bonded and permitted by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury and that obtains a winemaker's license from this State to: (1) produce, bottle, blend and age wine in this State; and (2) sell at retail or serve by the glass on its premises and, if applicable, at one other location, any wine produced, blended or aged by the winery. (NRS 369.200, 597.240) Under federal regulations, an alternating proprietorship is the operation of one or more wineries by proprietors who use the same premises. (27 C.F.R. § 24.136) Section 4.5 of this bill specifically authorizes operation of a winery by an alternating proprietorship of not more than four proprietors that are federally bonded and permitted and that obtain a winemaker's license from this State to operate a winery in this State.

Existing law defines the term "supplier" for the purposes of the regulation of alcoholic beverages and imposes certain requirements on a supplier of alcoholic beverages. (Chapters 369 and 597 of NRS) Sections 1 and 9 of this bill include breweries, brew pubs and craft distilleries located in this State within the definition of "supplier" and, thus, impose on such breweries, brew pubs and craft distilleries the requirements of existing law applicable to a supplier. Section 2 of this bill exempts certain smaller suppliers from the requirement to allow a wholesaler a period of 60 days to correct any failure to comply with the terms of a franchise agreement between the supplier and the wholesaler. Section 3 of this bill revises certain prohibitions imposed on a supplier by prohibiting a supplier from engaging in certain conduct in relation to a wholesaler who sells, distributes, markets, advertises or promotes the alcoholic beverages produced by the supplier.

Existing law prohibits a wholesale dealer of alcoholic beverages from investing money, directly or indirectly in a retail liquor store. (NRS 369.485) Section 12 of this bill prohibits the wholesale dealer from making such an investment through a subsidiary or agent.

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

Section 1. NRS 597.140 is hereby amended to read as follows:

597.140 "Supplier" means any person, partnership, corporation or other form of business enterprise engaged in business as a manufacturer, distiller, *craft distillery*, rectifier, brewer, *brew pub*, importer, vintner, broker or agent therefor, which distributes any or all of its brands of malt beverages, distilled spirits and wines, or all of them, through licensed wholesalers in this state.

Sec. 2. NRS 597.160 is hereby amended to read as follows:

597.160 1. Except as otherwise provided in subsection 4, if more than one franchise for the same brand or brands of malt beverages, distilled spirits and wines, or all of them, is granted to different wholesalers in this state, it is

a violation of NRS 597.120 to 597.180, inclusive, for any supplier to discriminate between such wholesalers with respect to any of the terms, provisions and conditions of these franchises.

2. Except as otherwise provided in this subsection and notwithstanding the terms, provisions or conditions of any franchise, a supplier shall not unilaterally terminate or refuse to continue any franchise with a wholesaler or cause a wholesaler to resign from that franchise unless the supplier has first established good cause for that termination, noncontinuance or causing of that resignation. This subsection does not apply to a supplier who sells less than 2,000 barrels of malt beverages, less than 250 cases of distilled spirits or less than 2,000 cases of wine in this state in any calendar year, or who operates a winery pursuant to NRS 597.240.

3. ~~{A}~~ *Except as otherwise provided in this subsection, a wholesaler may, within 60 days after he or she receives a notice required pursuant to NRS 597.155, correct any failure to comply with the terms, provisions and conditions of the franchise alleged by the supplier. This subsection does not apply to a supplier who sells less than 2,000 barrels of malt beverages, less than 250 cases of distilled spirits or less than 2,000 cases of wine in this State in any calendar year, or who operates a winery pursuant to NRS 597.240.*

4. Unless otherwise specified by contract between the supplier and wholesaler, a supplier shall not grant more than one franchise to a wholesaler for any brand of alcoholic beverage in a marketing area.

Sec. 3. NRS 597.162 is hereby amended to read as follows:

597.162 A supplier shall not:

1. Prohibit a wholesaler from selling an alcoholic beverage of any other supplier;

2. *Prevent a wholesaler from using best efforts to sell, market, advertise or promote an alcoholic beverage of any other supplier;*

3. *Provide any reward or penalty to, or in any other way condition its relationship with, a wholesaler based upon the amount of sales the wholesaler makes of an alcoholic beverage of any other supplier;*

4. *Disapprove a wholesaler's selection of a general manager or successor general manager based on the wholesaler's sales, marketing, advertising, promotion or retail placement of an alcoholic beverage of any other supplier;*

5. *Require a wholesaler to report to the supplier any of the wholesaler's financial information associated with the purchase, sale or distribution of an alcoholic beverage of any other supplier;*

6. Fix or maintain the price at which a wholesaler may resell an alcoholic beverage purchased from the supplier;

~~{3}~~ 7. Require a wholesaler to pay to the supplier all or any portion of the difference in the suggested retail price of an alcoholic beverage and the actual price at which the wholesaler sells the alcoholic beverage;

~~{4}~~ 8. Require a wholesaler to accept delivery of any alcoholic beverage or any other item that is not voluntarily ordered by the wholesaler or otherwise

not required under the franchise between the supplier and wholesaler or is in violation of any levels of inventory that are mutually agreed upon in writing by the supplier and wholesaler;

~~{5.}~~ 9. Prohibit or restrain, directly or indirectly, a wholesaler from participating in an organization that represents the interests of wholesalers for any lawful purpose; ~~for~~

10. *Discriminate against, penalize or otherwise retaliate against a wholesaler because the wholesaler raises, alleges or otherwise brings to the attention of the Department of Taxation an actual, potential or perceived violation of this chapter; or*

~~{6.}~~ 11. Require a wholesaler to participate in or contribute to any advertising fund or promotional activity that:

(a) Is not used for advertising or a promotional activity in the marketing area of the wholesaler; or

(b) Requires a contribution by the wholesaler that exceeds any amount specified for that purpose in the franchise.

Sec. 3.5. NRS 597.200 is hereby amended to read as follows:

597.200 As used in NRS 597.190 to 597.255, inclusive, unless the context otherwise requires:

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

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

3. "Craft distillery" means an establishment which:

(a) Manufactures distilled spirits from agricultural raw materials through distillation; and

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

4. "Distillation" means the process of producing or purifying spirituous liquor by successive evaporation and condensation.

5. "Engage in" includes participation in a business as an owner or partner, or through a subsidiary, affiliate, ownership equity or in any other manner.

6. "Instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

7. "Legal age" means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

8. "Malt beverage" means beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

9. *"Special event" means an event that:*

(a) *Lasts not longer than 1 calendar day; and*

(b) *Occurs at:*

(1) *A farmers' market, as defined in NRS 244.336; or*

(2) *An event designated as a county fair by a county fair and recreation board appointed pursuant to NRS 244A.599, 244A.601 or 244A.603.*

10. "Supplier" has the meaning ascribed to it in NRS 597.140.

~~{10.}~~ 11. "Wine" has the meaning ascribed to it in NRS 369.140.

Sec. 4. NRS 597.230 is hereby amended to read as follows:

597.230 1. In any county, a person may operate a brew pub:

(a) In any redevelopment area established in that county pursuant to chapter 279 of NRS;

(b) In any historic district established in that county pursuant to NRS 384.005;

(c) In any retail liquor store as that term is defined in NRS 369.090; or

(d) In any other area in the county designated by the board of county commissioners for the operation of brew pubs. In a city which is located in that county, a person may operate a brew pub in any area in the city designated by the governing body of that city for the operation of brew pubs.

➔ A person who operates one or more brew pubs may not manufacture more than ~~{15,000}~~ 40,000 barrels of malt beverages for all the brew pubs he or she operates in ~~{that county}~~ *this State* in any calendar year.

2. The premises of any brew pub operated pursuant to this section must be conspicuously identified as a "brew pub."

3. ~~{A}~~ *Except as otherwise provided in subsection 4, a person who operates ~~{a}~~ one or more brew ~~{pub}~~ pubs pursuant to this section may, upon obtaining a license pursuant to chapter 369 of NRS and complying with any other applicable governmental requirements:*

(a) Manufacture and store malt beverages on the premises of *one or more* of the brew ~~{pub}~~ *pubs* and:

(1) Sell and transport the malt beverages manufactured on the premises to a person holding a valid wholesale wine and liquor dealer's license or wholesale beer dealer's license issued pursuant to chapter 369 of NRS.

(2) Donate for charitable or nonprofit purposes and, *for the purposes of the donation*, transport the malt beverages manufactured on the premises in accordance with the terms and conditions of a special permit for the transportation of the malt beverages obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450.

(b) *Manufacture and store malt beverages on the premises of one or more of the brew pubs and transport the malt beverages manufactured on the premises to a retailer, other than a person who operates a brew pub pursuant to this section, that holds a valid license pursuant to chapter 369 of NRS for the purpose of selling the malt beverages at a special event in accordance with the terms and conditions of a special permit for the transportation of the malt beverages obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450. For the purposes of this paragraph, the person who operates one or more brew pubs shall not obtain more than 20 such special permits for the transportation of the malt beverages from the Department of Taxation pursuant to subsection 4 of NRS 369.450 within a calendar year.*

(c) Sell at retail, *not for resale*, malt beverages manufactured on or off the premises of one or more of the brew ~~pub~~ pubs for consumption on the premises.

~~(c)~~ (d) Sell at retail, *not for resale*, in packages sealed on the premises of one or more of the brew ~~pub~~ pubs, malt beverages, including malt beverages in unpasteurized form, manufactured on the premises for consumption off the premises.

4. The amount of malt beverages sold pursuant to paragraphs (b), (c) and (d) of subsection 3 must not exceed a total of 5,000 barrels in any calendar year. Of the 5,000 barrels, not more than 1,000 barrels may be sold in kegs.

Sec. 4.5. NRS 597.240 is hereby amended to read as follows:

597.240 1. A winery that is federally bonded and permitted by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury, including, without limitation, an alternating proprietorship of not more than four such wineries, and that has been issued a winemaker's license pursuant to NRS 369.200 may:

(a) Produce, bottle, blend and age wine.

(b) Import wine or juice from a winery that is located in another state and that is federally bonded and permitted by the Alcohol and Tobacco Tax and Trade Bureau, to be fermented into wine or, if already fermented, to be mixed with other wine or aged in a suitable cellar, or both.

2. A winery that has been issued a winemaker's license pursuant to NRS 369.200 on or before September 30, 2015, may:

(a) Sell at retail or serve by the glass, on its premises and at one other location, wine produced, blended or aged by the winery. The amount of wine sold at a location other than on the premises of the winery may not exceed 50 percent of the total volume of the wine sold by the winery.

(b) Serve by the glass, on its premises, any alcoholic beverage.

3. A winery that is issued a winemaker's license pursuant to NRS 369.200 on or after October 1, 2015:

(a) If 25 percent or more of the wine produced, blended or aged by the winery is produced, blended or aged from fruit grown in this State, may sell at retail or serve by the glass, on its premises, wine produced, blended or aged by the winery.

(b) If less than 25 percent of the wine produced, blended or aged by the winery is produced, blended or aged from fruit grown in this State, may sell at retail or serve by the glass, on its premises, not more than 1,000 cases of wine produced, blended or aged by the winery per calendar year.

4. The owner or operator of a winery shall not:

(a) Except as otherwise provided in paragraph (b) of subsection 2, sell alcoholic beverages on the premises of the winery other than wine produced, blended or aged by the winery.

(b) Produce, blend or age wine at any location other than on the premises of the winery.

5. The State Board of Agriculture may adopt regulations for the purposes of ensuring that a winery is in compliance with any requirements established by the Federal Government for labeling bottles of wine produced, blended or aged by the winery.

6. For the purposes of this section, an instructional wine-making facility is not a winery.

Sec. 5. Chapter 369 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 7.7, inclusive, of this act.

Sec. 6. *As used in this chapter, "brew pub" has the meaning ascribed to it in NRS 597.200.*

Sec. 7. *As used in this chapter, "brewery" means an establishment which manufactures malt beverages but does not sell those malt beverages at retail.*

Sec. 7.3. *As used in this chapter, "craft distillery" has the meaning ascribed to it in NRS 597.200.*

Sec. 7.7. *As used in this chapter, "malt beverage" has the meaning ascribed to it in NRS 597.200.*

Sec. 8. NRS 369.035 is hereby amended to read as follows:

369.035 1. As used in this chapter, "instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

2. For the purposes of this chapter:

(a) A person who operates an instructional wine-making facility is not a wine maker or a supplier, brewer, *brew pub*, distiller, *craft distillery*, manufacturer, producer, vintner, bottler, wholesaler, wholesale dealer, retailer or retail dealer of wine.

(b) An instructional wine-making facility is not a winery or a retail liquor store.

Sec. 9. NRS 369.111 is hereby amended to read as follows:

369.111 As used in this chapter, "supplier" means, with respect to liquor which is brewed, distilled, fermented, manufactured, rectified, produced or bottled:

1. Outside the United States:

(a) The brewer, distiller, manufacturer, producer, rectifier, vintner or bottler of the liquor, or his or her designated agent; or

(b) The owner of the liquor when it is first transported into any area under the jurisdiction of the United States Government, if the brewer, distiller, manufacturer, rectifier, producer, vintner or bottler of the liquor, or a designated agent of such a person, has not designated an importer to import the liquor into this State;

2. Within the United States but outside this State, the brewer, distiller, manufacturer, rectifier, producer, vintner or bottler of the liquor, or his or her designated agent; or

3. Within this State, the *brewery*, *brew pub*, distiller, *craft distillery*, manufacturer, rectifier, producer or bottler of the liquor or his or her designated agent.

Sec. 9.5. NRS 369.150 is hereby amended to read as follows:

369.150 1. The Department is charged with the duty of administering the provisions of this chapter.

2. The Department shall:

(a) Prescribe and cause to be printed and issued free of charge all forms for applications and reports.

(b) Except as otherwise provided in NRS 369.430, issue free of charge all certificates and permits.

(c) Adopt and enforce all rules, regulations and standards necessary or convenient to carry out the provisions of this chapter.

(d) Adopt regulations to carry out the provisions of NRS 369.462 to 369.468, inclusive, 369.486 and 369.488.

(e) *Adopt and enforce all rules, regulations and standards necessary or convenient to monitor or survey the quantity of malt beverages manufactured by a brew pub within a calendar year for compliance with NRS 597.230.*

Sec. 10. NRS 369.180 is hereby amended to read as follows:

369.180 1. In addition to the limitations imposed by NRS 597.210 and 597.220, a person shall not:

(a) Import liquors into this State unless the person first secures an importer's license or permit from this State.

(b) Engage in business as a wholesale dealer of wines and liquors in this State unless the person first secures a wholesale wine and liquor dealer's license from this State.

(c) Engage in business as a wholesale dealer of beer in this State unless the person first secures a wholesale beer dealer's license from this State.

(d) Operate a winery in this State or export wine from this State unless the person first secures a wine-maker's license from this State.

(e) Operate an instructional wine-making facility in this State unless the person first secures a license for the instructional wine-making facility from this State.

(f) Operate a brewery in this State unless the person first secures a brewer's license from this State.

(g) Operate a brew pub in this State unless the person first secures a brew pub's license from this State.

(h) Operate a craft distillery in this State unless the person first secures a craft distiller's license from this State.

2. *A person who holds a license for a brew pub:*

(a) *May engage in any activity authorized by NRS 597.230.*

(b) *May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.*

3. A person who holds a license for an instructional wine-making facility:

(a) May engage in any activity authorized by NRS 597.245.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

~~{3.}~~ 4. A person who holds a license for a craft distillery:

(a) May engage in any activity authorized by NRS 597.235.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

~~{4. — As used in this section:~~

~~— (a) "Brew pub" has the meaning ascribed to it in NRS 597.200.~~

~~— (b) "Brewery" means an establishment which manufactures malt beverages but does not sell those malt beverages at retail.~~

~~— (c) "Craft distillery" has the meaning ascribed to it in NRS 597.200.~~

~~— (d) "Malt beverage" has the meaning ascribed to it in NRS 597.200.]~~

Sec. 11. NRS 369.382 is hereby amended to read as follows:

369.382 Except as otherwise provided in NRS 369.386, 369.415, 597.230 and 597.235, a supplier shall not engage in the business of importing, wholesaling or retailing alcoholic beverages in this State.

Sec. 12. NRS 369.485 is hereby amended to read as follows:

369.485 1. The Legislature hereby declares:

(a) That it is a privilege to engage in the business of selling intoxicating liquor at the wholesale or retail level in this state;

(b) That the Legislature finds it necessary to impose certain restrictions on the exercise of such privilege; and

(c) That it is the policy of this state to preclude the acquisition or control of any retail liquor store by a wholesale liquor dealer.

2. As used in this section, unless the context requires otherwise:

(a) "Delinquent payment" means the failure of a retail liquor store to make payment to a wholesale dealer for liquor on or before the 15th day of the month following delivery by the wholesale dealer.

(b) "Payment" means the full legal discharge of the debt by the wholesale dealer's receipt of cash or its equivalent, including ordinary and recognized means for discharge of indebtedness excepting notes, pledges or other promises to pay at a future date. A postdated check, a check not promptly deposited for collection or a check dishonored on presentation for payment does not constitute payment.

(c) "Payment in cash" means the full legal discharge of the debt by delivery of cash, money order, certified check or a cashier's or similar bank officer's check.

3. A wholesale dealer shall not:

(a) Loan any money or other thing of value to a retail liquor store.

(b) Invest money, directly or indirectly, *including through a subsidiary or agent*, in a retail liquor store.

(c) Furnish or provide any premises, building, bar or equipment to a retail liquor store.

(d) Participate, directly or indirectly, in the operation of the business of a retail liquor store.

(e) Sell liquor to a retail liquor store except for payment on or before delivery or on terms requiring payment by the retail liquor store before or on the 10th day of the month following delivery of such liquor to it by the wholesale dealer.

(f) Sell liquor to a retail liquor store which is delinquent in payment to such wholesale dealer except for payment in cash on or before delivery.

4. On the 15th day of the month following the delivery of liquor and on the 15th day of each month thereafter, the wholesale dealer shall charge a retail liquor store which is delinquent a service charge of 1.5 percent of the amount of the unpaid balance.

5. The Department may impose the following penalties on a wholesale dealer who violates any of the provisions of this section within any 24-month period:

(a) For the first violation a penalty of not more than \$500.

(b) For the second violation a penalty of not more than \$1,000.

(c) For the third and any subsequent violation a penalty of not more than \$5,000 or by a license suspension, or by both such penalty and suspension.

6. The Department may, upon its own motion, and shall, upon the verified written complaint of any wholesale dealer, investigate the possible violation of any of the provisions of this section by any wholesale dealer.

Sec. 13. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2017, for all other purposes.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Amendment No. 783 to Assembly Bill No. 431 adds Senator Settelmeyer as a joint sponsor of the bill. It also authorizes the operation of a winery by an alternating proprietorship of not more than four proprietors that are federally bonded and permitted and obtain a winemaker's license from this State to operate a winery in Nevada.

Amendment adopted.

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

Assembly Bill No. 461.

Bill read second time.

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

Amendment No. 739.

SUMMARY—Designates ~~the third week of January as~~ "Peace Week" in the State of Nevada. (BDR 19-1037)

AN ACT relating to days of observance; designating ~~the third week in January as~~ "Peace Week" in the State of Nevada; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth certain days of observance in the State of Nevada to commemorate certain persons or occasions or to publicize information regarding certain important topics. (Chapter 236 of NRS) This bill designates the ~~third~~ week in January that begins with Martin Luther King, Jr. Day and concludes the following Saturday as "Peace Week" in the State of Nevada and requires the Governor to issue annually a proclamation encouraging the observance of "Peace Week."

WHEREAS, The provisions of this act require the State of Nevada to recognize "Peace Week" commencing on the day on which Martin Luther King, Jr. Day is observed and concluding the following Saturday; and

WHEREAS, "Peace Week" is designed to foster a statewide movement for a culture of peace and is recognized as an opportunity for the residents of this State to mark individual and organizational progress toward building such a culture; and

WHEREAS, "Peace Week" will serve as a reminder to the residents of this State of our permanent commitment to peace; and

WHEREAS, Peace education provided as part of "Peace Week" should be focused on helping students understand and manage conflict in their own lives and, from a greater perspective, learn how peace is fostered locally, statewide, nationally and internationally; and

WHEREAS, The activities of "Peace Week" are designed to empower the residents and visitors of this State to create and foster peace in each person's own life and in the lives of those around us; and

WHEREAS, "Peace Week" in the State of Nevada encourages all residents of this State to take part in activities that contribute to the creation of a more peaceful, compassionate, knowledgeable and unified State and world; now, therefore,

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

Section 1. Chapter 236 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The third~~ The week of January that begins with Martin Luther King, Jr. Day and concludes the following Saturday is designated as "Peace Week" in the State of Nevada.

2. *The Governor shall issue annually a proclamation encouraging the observance of "Peace Week" which must:*

(a) Call upon the news media, educators, business and labor leaders and appropriate governmental officers to bring to the attention of the residents of this State the importance of promoting a culture of peace in this State and around the world;

(b) Encourage schools, individuals, businesses, community organizations and faith-based organizations to participate in the observance of a minute of silence for peace to be observed at noon on the second day of "Peace Week";

(c) *Encourage schools, community organizations and faith-based organizations to offer peace education addressing ways in which persons can:*

- (1) *Build bridges between polarized groups;*
- (2) *Heal community wounds and relationships; and*
- (3) *Advance the science of peace and teach the children of this State to live compassionately;*

(d) *Encourage residents of this State to:*

- (1) *Engage in quiet reflection;*
- (2) *Volunteer at local community-oriented nonprofit organizations;*
- (3) *Commit to more peaceful in-home communications;*
- (4) *Share time with and devote energy to a person in need of support;*

and

(5) *Learn about a local or global issue relating to people or the environment; and*

(e) *Promote participation in or the planning of community-wide activities, including, without limitation:*

- (1) *Assemblies and rallies for peace;*
- (2) *Marathons and walks for peace;*
- (3) *Competitions of written, artistic and other creative expressions focused on promoting peace; and*
- (4) *The wearing or displaying of symbols of peace.*

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

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Amendment No. 739 to Assembly Bill No. 461 clarifies that "Peace Week" commences on the day on which Martin Luther King, Jr. Day is observed and concludes the following Saturday.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 470.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 788.

SUMMARY—~~{Creates}~~ Authorizes the creation of a preprosecution diversion program for defendants charged with certain misdemeanor offenses. (BDR 14-1062)

AN ACT relating to criminal procedure; ~~{creating}~~ authorizing the creation of a preprosecution diversion program for defendants charged with certain misdemeanor offenses; establishing qualifications for participation in ~~{the}~~ such a program; requiring discharge of the defendant and dismissal of the original charge upon the successful completion of ~~{the}~~ such a program; requiring a defendant who fails to complete the program to enter a plea on the original charge; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates a diversion program for certain offenders who have violated the terms of their probation. (NRS 209.4291) Existing law authorizes a court to assign such an offender to a program of treatment for mental illness or substance abuse issues. (NRS 209.4293) Existing law also authorizes a person who has successfully completed a preprosecution diversion program to request that any biological or DNA sample which was provided by the person to the State be destroyed. (NRS 176.09125) Sections 2-5 of this bill ~~create~~ authorize the creation of a preprosecution diversion program for certain persons who have been accused of committing ~~a crime~~ certain crimes which ~~is~~ are punishable as a misdemeanor. Section 2 provides that if such a program has been created, the court may determine that a defendant is eligible to complete ~~the~~ the preprosecution diversion program if the defendant: (1) is charged with a misdemeanor other than a violent crime, ~~for~~ for driving under the influence of intoxicating liquor or a controlled substance ~~or~~ or vehicular manslaughter or a minor traffic offense; (2) has not previously been convicted of a crime other than a minor traffic offense; and (3) has not been previously ordered by a court to complete a preprosecution diversion program in this State. ~~Section~~ If a justice court or municipal court has developed a preprosecution diversion program pursuant to section 3 of this bill, section 2 authorizes, but does not require, ~~for~~ for the justice court or municipal court to order a defendant to complete a preprosecution diversion program and provides that the decision of the court relating to the participation of a defendant in the program may not be appealed.

Section 3 of this bill ~~requires~~ authorizes a justice court or municipal court to develop a preprosecution diversion program. Section 3 requires a justice court or municipal court to establish the terms and conditions which a defendant must complete as part of such a preprosecution diversion program, if a defendant is ordered to complete such a program pursuant to section 2. Section 3 authorizes the court to include in the terms and conditions that the defendant complete a program of treatment and to impose any appropriate sanctions on the defendant, which may include, without limitation, community service, restitution or a curfew. Section 3 requires the court to issue an order containing the terms and conditions for successful completion of ~~the~~ such a preprosecution diversion program. Section 3 provides that the defendant must: (1) complete the program before the date established by the court in the order, which must not be more than 18 months after the date of the order; and (2) appear before the court at least once every 3 months for a status hearing. Section 4 of this bill requires the court to dismiss the charge or charges against the defendant if he or she successfully completes the terms and conditions of ~~the~~ such a preprosecution diversion program. Finally, section 4 of this bill requires a defendant who fails to complete the terms and conditions of ~~the~~ such a preprosecution diversion program to be dismissed from the program and be prosecuted in the normal manner provided by law.

Existing law requires the criminal records of a defendant to be sealed and treated as confidential if a defendant is acquitted or the charges are dropped, a certain period of time has passed since the conviction or if he or she completes a program for reentry or a program of treatment for: (1) veterans and the members of the military; (2) persons with mental illness or intellectual disabilities; or (3) substance abuse issues. (NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365, 458.330) Sections 5 and 10-12 of this bill similarly provide that the criminal records of a defendant who has successfully completed a preprosecution diversion program are sealed and confidential except as otherwise required by law. Section 7 of this bill authorizes the defendant to request that any biological or DNA sample provided to the State by the defendant be destroyed upon the successful completion of the preprosecution diversion program.

Existing law authorizes a court to establish a program of treatment for certain offenders who are charged with specified offenses, including, without limitation, veterans and members of the military, persons with mental illness or intellectual disabilities or persons with substance abuse issues. (NRS 176A.250, 176A.280, 453.580) Sections 3, 8, 9 and 13 of this bill authorize a justice court or municipal court, as part of a preprosecution diversion program, to require a defendant to complete a program of treatment. Section 3 provides that such a program of treatment may include, without limitation, a program of treatment for veterans and members of the military, persons with mental illness or intellectual disabilities or persons with substance abuse issues, educational programs, participation in a support group, anger management therapy or counseling.

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

Section 1. Chapter 174 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. *At the arraignment of a defendant in justice court or municipal court, but before the entry of a plea, the court ~~shall~~ may determine whether the defendant is eligible for assignment to ~~complete~~ a preprosecution diversion program ~~if~~ established pursuant to section 3 of this act. The court shall receive input from the prosecuting attorney and the attorney for the defendant, if any, whether the defendant would benefit from and is eligible for assignment to the program.*

2. *A defendant ~~is~~ may be determined to be eligible by the court for assignment to ~~complete~~ a preprosecution diversion program if the defendant:*

(a) *Is charged with a misdemeanor other than:*

(1) *A crime of violence as defined in NRS 200.408; ~~for~~*

(2) *Vehicular manslaughter as described in NRS 484B.657;*

(3) *Driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 484C.130; ~~and~~ or*

(4) *A minor traffic offense; and*

(b) Has not previously been:

(1) Convicted of violating any criminal law other than a minor traffic offense; or

(2) Ordered by a court to complete a preprosecution diversion program in this State.

3. If a defendant is determined to be eligible for assignment to ~~complete~~ a preprosecution diversion program pursuant to subsection 2, the justice court or municipal court may order the defendant to complete ~~the~~ the program pursuant to subsection 5 of section 3 of this act.

4. ~~If a defendant is ordered to complete a preprosecution diversion program, the defendant must be immediately released from custody upon his or her own recognizance.~~

~~5.~~ A defendant has no right to complete a preprosecution diversion program or to appeal the decision of the justice court or municipal court relating to the participation of the defendant in such a program.

Sec. 3. 1. ~~If a defendant is ordered by a~~ A justice court or municipal court ~~to complete~~ may establish a preprosecution diversion program to which it may assign a defendant if he or she is determined to be eligible pursuant to section 2 of this act. ~~the court shall develop an appropriate preprosecution diversion program for the defendant. The court shall~~

2. If a defendant is determined to be eligible for assignment to a preprosecution diversion program pursuant to section 2 of this act, the justice or municipal court must receive input from the prosecuting attorney, the attorney for the defendant, if any, and the defendant relating to the terms and conditions ~~for~~ for the defendant's participation in the program.

~~2.~~ 3. A preprosecution diversion program ~~created~~ established by a justice court or municipal court pursuant to this section may include, without limitation:

(a) A program of treatment which may rehabilitate ~~the~~ a defendant, including, without limitation, educational programs, participation in a support group, anger management therapy, counseling or a program of treatment for veterans and members of the military, mental illness or intellectual disabilities or the abuse of alcohol or drugs;

(b) Any appropriate sanctions to impose on ~~the~~ a defendant, which may include, without limitation, community service, restitution, prohibiting contact with certain persons or the imposition of a curfew; and

(c) Any other factor which may be relevant to determining an appropriate program of treatment or sanctions to require for participation of ~~the~~ a defendant in the preprosecution diversion program.

~~3.~~ 4. If the justice court or municipal court determines that ~~the~~ a defendant may be rehabilitated by a program of treatment for veterans and members of the military, persons with mental illness or intellectual disabilities or the abuse of alcohol or drugs, the court may refer the defendant to an appropriate program of treatment established pursuant to NRS 176A.250,

176A.280 or 453.580. The court shall retain jurisdiction over the defendant while the defendant completes such a program of treatment.

~~4.1~~ 5. The justice court or municipal court shall, when assigning a defendant to a preprosecution diversion program, issue an order setting forth the terms and conditions for successful completion of the preprosecution diversion program, which may include, without limitation:

- (a) Any program of treatment the defendant is required to complete;
- (b) Any sanctions and the manner in which they must be carried out by the defendant;
- (c) The date by which the terms and conditions must be completed by the defendant, which must not be more than 18 months after the date of the order;
- (d) A requirement that the defendant appear before the court at least one time every 3 months for a status hearing on the progress of the defendant toward completion of the terms and conditions set forth in the order; and
- (e) A notice relating to the provisions of subsection 3 of section 4 of this act.

~~5. The~~

6. A defendant assigned to a preprosecution diversion program shall pay the cost of any program of treatment required by this section to the extent of his or her financial resources. The court shall not refuse to place a defendant in a program of treatment if the defendant does not have the financial resources to pay any or all of the costs of such program.

~~6.1~~ 7. If restitution is ordered to be paid pursuant to subsection ~~4.1~~ 5, the defendant must make a good faith effort to pay the required amount of restitution in full. If the justice court or municipal court determines that a defendant is unable to pay such restitution, the court must require the defendant to enter into a judgment by confession for the amount of restitution.

Sec. 4. 1. If the justice court or municipal court determines that a defendant has successfully completed the terms and conditions of a preprosecution diversion program ordered pursuant to subsection ~~4.1~~ 5 of section 3 of this act, the court must discharge the defendant and dismiss the indictment, information, complaint or citation.

2. Discharge and dismissal pursuant to subsection 1 is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the indictment, information, complaint or citation. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the indictment, information, complaint or citation in response to an inquiry made of the defendant for any purpose.

3. If the justice court or municipal court determines that a defendant has not successfully completed the terms or conditions of a preprosecution diversion program ordered pursuant to subsection ~~4.1~~ 5 of section 3 of this

act, the court must issue an order terminating the participation of the defendant in the preprosecution diversion program and order the defendant to appear for an arraignment to enter a plea based on the original indictment, information, complaint or citation pursuant to NRS 174.015.

Sec. 5. 1. *If the defendant is discharged and the indictment, information, complaint or citation is dismissed pursuant to section 4 of this act, the justice court or municipal court must order sealed all documents, papers and exhibits in the record of the defendant, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the order of the court. The court shall order those records sealed without a hearing unless the district attorney petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.*

2. *If the justice court or municipal court orders the record of a defendant sealed, the ~~court~~ defendant must send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.*

Sec. 6. NRS 174.015 is hereby amended to read as follows:

174.015 1. ~~{Arraignment}~~ *Except as otherwise provided in subsection 3, arraignment shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating the substance of the charge and calling on the defendant to plead thereto. The defendant shall be given a copy of the indictment or information before the defendant is called upon to plead.*

2. *In justice court ~~{ }~~ or municipal court, before the trial commences, the complaint must be distinctly read to the defendant before the defendant is called upon to plead.*

3. *In justice court or municipal court, before the defendant is called upon to plead, the court shall determine whether the defendant is eligible for assignment to ~~complete~~ a preprosecution diversion program pursuant to section 2 of this act.*

Sec. 7. NRS 176.09125 is hereby amended to read as follows:

176.09125 1. A person whose record of criminal history indicates the collection of a biological specimen and whose DNA profile and DNA record have been included in the State DNA Database and CODIS pursuant to NRS 176.09123 may make a written request to the Central Repository for Nevada Records of Criminal History, using the form created pursuant to NRS 176.09165, that the biological specimen be destroyed and the DNA profile and DNA record be purged from the forensic laboratory, the State DNA Database and CODIS on the grounds that:

(a) The conviction on which the authority for keeping the biological specimen or the DNA profile or DNA record has been reversed and the case dismissed; or

(b) The arrest which led to the inclusion of the biological specimen or the DNA profile or DNA record:

(1) Has resulted in a felony charge that has been resolved by a dismissal, the successful completion of a preprosecution diversion program ~~{ }~~ *pursuant to section 4 of this act*, a conditional discharge, an acquittal or an agreement entered into by a prosecuting attorney and a defendant in which the defendant, in exchange for a plea of guilty, guilty but mentally ill or nolo contendere, receives a charge other than a felony; or

(2) Has not resulted in any additional criminal charge for a felony within 3 years after the date of the arrest.

2. Within 6 weeks after receiving a written request pursuant to subsection 1, the Central Repository for Nevada Records of Criminal History shall forward the request and all supporting documentation to the forensic laboratory holding the biological specimen. Except as otherwise provided in subsection 3, upon receipt of the written request, the forensic laboratory shall destroy any biological specimen from the person and purge the DNA profile of the person if the written request is accompanied by:

(a) A certified copy of the court order reversing and dismissing the conviction; or

(b) For any biological specimen obtained pursuant to an arrest for which a biological specimen must be provided pursuant to NRS 176.09123:

(1) A certified copy of the dismissal, the successful completion of a preprosecution diversion program ~~{ }~~ *pursuant to section 4 of this act*, a conditional discharge, an acquittal or the agreement entered into by the prosecuting attorney and the defendant in which the defendant, in exchange for a plea of guilty, guilty but mentally ill or nolo contendere, received a charge other than a felony; or

(2) A sworn affidavit from the law enforcement agency which submitted the biological specimen that no felony charges arising from the arrest have been filed within 3 years after the date of the arrest.

3. The forensic laboratory shall not destroy a biological specimen or purge the DNA profile of a person if the forensic laboratory is notified by a law enforcement agency that the person has a prior felony, a new felony arrest or a pending felony charge for which collection of a biological specimen is authorized pursuant to NRS 176.09123.

4. If a forensic laboratory:

(a) Determines that the requirements to destroy a biological specimen or purge a DNA profile or DNA record of a person have not been met, the forensic laboratory shall notify the Central Repository of Nevada Records of Criminal History of that fact. The Central Repository shall, as soon as reasonably practicable, notify the person that his or her request has been denied.

(b) Destroys a biological specimen and purges a DNA profile pursuant to this section, the forensic laboratory shall take the following actions:

(1) Notify the State DNA Database that the DNA profile and DNA record of the person must be purged from the State DNA Database and from CODIS.

Upon receipt of such notification, the DNA profile and DNA record of the person must be purged from the State DNA Database and CODIS.

(2) Notify the Central Repository for Nevada Records of Criminal History that the forensic laboratory has destroyed the biological specimen and purged the DNA profile of the person and has notified the State DNA Database that the DNA profile and DNA record of the person must be purged from the State DNA Database and CODIS. Upon receipt of such notification, the Central Repository shall, as soon as reasonably practicable, notify the person that his or her request has been granted, his or her biological specimen has been destroyed by the forensic laboratory and his or her DNA profile and DNA record have been purged from the forensic laboratory, the State DNA Database and CODIS.

Sec. 8. NRS 176A.250 is hereby amended to read as follows:

176A.250 A court may establish an appropriate program for the treatment of mental illness or intellectual disabilities to which it may assign a defendant pursuant to NRS 176A.260 ~~or section 3 of this act~~. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Sec. 9. NRS 176A.280 is hereby amended to read as follows:

176A.280 A court may establish an appropriate program for the treatment of veterans and members of the military to which it may assign a defendant pursuant to NRS 176A.290 ~~or section 3 of this act~~. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Sec. 10. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330, *or section 5 of this act*, a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and
2. Each agency of criminal justice and each public or private company, agency, official or other custodian of records named in the order, and that person shall seal the records in his or her custody which relate to the matters contained in the order, shall advise the court of compliance and shall then seal the order.

Sec. 11. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 ~~or section 5 of this act~~:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or

acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if the person's civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of the person's records, a person who is restored to his or her civil rights pursuant to subsection 1 must be given:

(a) An official document which demonstrates that the person has been restored to the civil rights set forth in paragraph (b) of subsection 1; and

(b) A written notice informing the person that he or she has not been restored to the right to bear arms, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms.

3. A person who has had his or her records sealed in this State or any other state and whose official documentation of the restoration of civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has had his or her records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his or her records sealed in this State or any other state may present official documentation that the person has been restored to his or her civil rights or a court order restoring civil rights as proof that the person has been restored to the right to vote, to hold office and to serve as a juror.

Sec. 12. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 *or section 5 of this act* may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section, subsection 8 of NRS 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of

such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 *or section 5 of this act* in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

Sec. 13. NRS 453.580 is hereby amended to read as follows:

453.580 1. A court may establish an appropriate treatment program to which it may assign a person pursuant to subsection 4 of NRS 453.336, NRS 453.3363 or 458.300 ~~or~~ *or section 3 of this act*, or it may assign such a person to an appropriate treatment provider. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program.

2. A program to which a court assigns a person pursuant to subsection 1 must include:

(a) Information and encouragement for the participant to cease abusing alcohol or using controlled substances through educational, counseling and support sessions developed with the cooperation of various community, health, substance abuse, religious, social service and youth organizations;

(b) The opportunity for the participant to understand the medical, psychological and social implications of substance abuse; and

(c) Alternate courses within the program based on the different substances abused and the addictions of participants.

3. If the offense with which the person was charged involved the use or possession of a controlled substance, in addition to the program or as a part of the program, the court must also require random testing or screening to determine that the person is not using a controlled substance.

4. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which the person is assigned and the cost of any additional supervision required pursuant to subsection 3, to the extent of the financial resources of the person. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program with a treatment provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

5. If a court places a person under the supervision of a treatment provider to receive treatment for the abuse of alcohol or use of controlled substances pursuant to this section, the court may authorize the person to complete any period of treatment remaining under the supervision of a treatment provider in another jurisdiction if the court determines that:

(a) The person is eligible to receive treatment under a program of treatment in the other jurisdiction; and

(b) The program of treatment in the other jurisdiction is substantially similar to the program of treatment to which the person is assigned in this State.

6. As used in this section:

(a) "Treatment provider" has the meaning ascribed to it in NRS 458.010.

(b) "Treatment provider in another jurisdiction" means a person or a public or private agency, residential treatment center, facility for the treatment of abuse of alcohol or drugs, or voluntary organization which holds a license, certificate or other credential issued by a regulatory agency in another jurisdiction.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 788 to Assembly Bill No. 470 makes the implementation of a diversion program discretionary with the justice or municipal court. It makes the determination of eligibility for a diversion program contingent on the court creating a diversion program and provides the prosecuting attorney and defense attorney, if any, the ability to be heard regarding admission of a defendant into a diversion program. It grants the justice or municipal court discretion to determine how a defendant may apply to a diversion program. Removes a mandatory release provision from the bill. Provides that a person charged with vehicular manslaughter is not eligible for a diversion program. It provides that minor traffic violations are excluded from eligibility for a diversion program, and provides that a defendant must send a copy of a court order sealing the defendant's record to the agency or officer named in the order.

Amendment adopted.

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

Assembly Bill No. 471.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 137.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 137 requires certain State agencies and regulatory bodies to include certain questions on the forms used to collect data from a veteran that is submitted to the Interagency Council on Veterans Affairs.

The agencies and regulatory bodies required to collect this information have some flexibility in implementation by allowing until the earlier of two years after the effective date of this bill or the date on which the inventory of paper forms in stock or ordered before the effective date is used or the revised electronic form or required changes to the computer system are completed.

The bill removes the sunset date of June 30, 2017, to continue the requirement to develop plans and programs to assist veterans who have suffered military sexual trauma, maintains the Account to Assist Veterans Who Have Suffered Sexual Trauma and eliminates the requirement to transfer any remaining balance in the Account on June 30, 2017.

Roll call on Senate Bill No. 137:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Senate Bill No. 137 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 458.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 923.

SUMMARY—Revises provisions relating to the development and operation of the statewide longitudinal data system. (BDR 34-331)

AN ACT relating to education; abolishing the P-20W Advisory Council; creating the P-20W Research Data System Advisory Committee; prescribing the membership and duties of the Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In 2007, the P-16 Advisory Council was created to assist in the coordination between elementary, secondary and higher education in this State. (Section 6 of chapter 522, Statutes of Nevada 2007, pp. 3156-57) In 2013, the membership of the P-16 Advisory Council was revised and the Council was renamed the P-20W Advisory Council. (Section 1 of chapter 139, Statutes of Nevada 2013, pp. 475-76)

Existing law requires the P-20W Advisory Council to address, in part: (1) methods to ensure the successful transition of children from early childhood education programs to elementary school; (2) the development and oversight of a statewide longitudinal data system that links data relating to early childhood education programs and K-12 public education with data relating to postsecondary education and the State's workforce; and (3) a plan for collaborative research using data from the statewide longitudinal data system. (NRS 400.040)

Section 9 of this bill abolishes the Council and repeals provisions relating to the meetings and duties of the Council. Section 3 of this bill instead creates the P-20W Research Data System Advisory Committee, consisting of three ex officio members and such additional members as the Governor determines are necessary or desirable. Section 4 of this bill requires the Committee to: (1) develop and oversee a statewide longitudinal data system that links data relating to early childhood education programs and K-12 public education with data relating to postsecondary education and the workforce in this State; (2) develop a plan for collaborative research using data from the statewide longitudinal data system; and (3) advise and assist certain entities with certain duties relating to the operation of the statewide longitudinal data system and the work of the Committee. Section 6 of this bill requires the Committee to: (1) prepare and post a biennial report of its activities and any recommendations on the Internet website maintained by the Department of Employment, Training and Rehabilitation; and (2) submit the written report to the Director of the Legislative Counsel Bureau for transmittal to the next

regular session of the Legislature and the Governor. Section 7 of this bill makes a conforming change.

Senate Bill No. 516 of this session, if enacted, would require the Executive Director of the Office of Workforce Innovation in the Office of the Governor to maintain and oversee the statewide longitudinal data system that links data relating to early childhood education programs and K-12 public education with data relating to postsecondary education and the State's workforce. Sections 6.5, 7.3 and 7.7 of this bill, which become effective only if Senate Bill No. 516 is enacted and becomes effective, make conforming changes to this bill to require: (1) the Office of Workforce Innovation to provide any necessary administrative support for the P-20W Research Data System Advisory Committee; (2) the Committee to support and advise the Executive Director of the Office of Workforce Innovation as he or she maintains and oversees the statewide longitudinal data system; and (3) the Committee to post its biennial report on the website of the Office of Workforce Innovation.

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

Section 1. Chapter 400 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Committee" means the P-20W Research Data System Advisory Committee created by section 3 of this act.*

Sec. 3. 1. *The P-20W Research Data System Advisory Committee is hereby created to assist in the coordination and management of the statewide longitudinal data system developed pursuant to section 4 of this act. The Chancellor of the System, the Superintendent of Public Instruction and the Director of the Department of Employment, Training and Rehabilitation or their designees serve as ex officio members of the Committee.*

2. *The Committee may, by a vote of the majority of the Committee, nominate additional members for consideration by the Governor to be appointed to the Committee. The Governor may appoint a nominee to the Committee if the Governor determines that the addition of the nominee to the Committee is necessary or desirable.*

3. *Each appointed member of the Committee serves a term of 3 years and may be reappointed.*

4. *The Governor shall call the first meeting of the Committee. At its first meeting and annually thereafter, the members of the Committee shall elect a Chair and a Vice Chair from among the members of the Committee.*

5. *The Committee shall meet at least once each calendar year and, after its first meeting, at the call of the Chair.*

6. ~~*Members of the Committee serve without compensation and are not entitled to travel or per diem expenses.*~~

~~7.~~ *The Department of Employment, Training and Rehabilitation shall provide any administrative support necessary for the Committee to carry out its duties.*

Sec. 4. *The Committee shall:*

1. *Develop and oversee a statewide longitudinal data system that links data relating to early childhood education programs and K-12 public education with data relating to postsecondary education and the workforce in this State;*

2. *Develop a plan for collaborative research using data from the statewide longitudinal data system developed pursuant to subsection 1; and*

3. *Advise and assist the System, the Department of Education and the Department of Employment, Training and Rehabilitation in:*

(a) *Applying for and obtaining grants of money for the operation of the statewide longitudinal data system developed pursuant to subsection 1 or to carry out the work of the Committee;*

(b) *Budgeting for the operation of the statewide longitudinal data system developed pursuant to subsection 1 or to carry out the work of the Committee;*

(c) *Proposing legislation relating to the statewide longitudinal data system developed pursuant to subsection 1 or to carry out the work of the Committee; and*

(d) *Matters relating to any contract for any services necessary for the operation or utilization of the statewide longitudinal data system developed pursuant to subsection 1 or to carry out the work of the Committee.*

Sec. 5. NRS 400.010 is hereby amended to read as follows:

400.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~{400.015 and}~~ 400.020 and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 400.045 is hereby amended to read as follows:

400.045 On or before June 30 of each *even-numbered* year, the ~~{Council}~~ Committee shall ~~{submit}~~ :

1. *Prepare and post a written report of its activities and any recommendations on the Internet website maintained by the Department of Employment, Training and Rehabilitation; and*

2. *Submit a copy of the written report prepared pursuant to subsection 1 to the:*

~~{1. Board of Regents of the University of Nevada;~~

~~2. State Board;~~

~~3.}~~ (a) Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature;

~~{4. Legislative Committee on Education; and~~

~~5.}~~ and

(b) Governor.

Sec. 6.5. NRS 400.045 is hereby amended to read as follows:

400.045 On or before June 30 of each even-numbered year, the Committee shall:

1. Prepare and post a written report of its activities and any recommendations on the Internet website maintained by the ~~{Department of Employment, Training and Rehabilitation;}~~ Office of Workforce Innovation; and

2. Submit a copy of the written report prepared pursuant to subsection 1 to the:

(a) Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and

(b) Governor.

Sec. 7. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115 and 612.642, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. The Administrator may, in accordance with a cooperative agreement among all participants in the statewide longitudinal data system developed pursuant to ~~[NRS 400.040]~~ *section 4 of this act*, make the information obtained by the Division available to:

(a) The Board of Regents of the University of Nevada for the purpose of complying with the provisions of subsection 4 of NRS 396.531; and

(b) The Director of the Department of Employment, Training and Rehabilitation for the purpose of complying with the provisions of paragraph (d) of subsection 1 of NRS 232.920.

4. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation;

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS; and

(f) The Secretary of State to operate the state business portal established pursuant to chapter 75A of NRS for the purposes of verifying that data submitted via the portal has satisfied the necessary requirements established by the Division, and as necessary to maintain the technical integrity and functionality of the state business portal established pursuant to chapter 75A of NRS.

↪ Information obtained in connection with the administration of the Division may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

5. Upon written request made by the State Controller or a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request may be made electronically and must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the State Controller or local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation assigned to the State Controller for collection or owed to the local government, as applicable. Except as otherwise provided in NRS 239.0115, the information obtained by the State Controller or local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation assigned to the State Controller for collection or owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

6. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

7. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

8. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and

contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. In addition to the provisions of subsection 6, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

10. The Division of Industrial Relations of the Department of Business and Industry shall periodically submit to the Administrator, from information in the index of claims established pursuant to NRS 616B.018, a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS. Upon receipt of that information, the Administrator shall compare the information so provided with the records of the Employment Security Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the Division of Industrial Relations must be in a form determined by the Administrator and must contain the social security number of each such person. If it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency.

11. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

12. If any employee or member of the Board of Review, the Administrator or any employee of the Administrator, in violation of the provisions of this section, discloses information obtained from any employing unit or person in the administration of this chapter, or if any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter uses or permits the use of the list for any political purpose, he or she is guilty of a gross misdemeanor.

13. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 7.3. Section 3 of this act is hereby amended to read as follows:

Sec. 3. 1. The P-20W Research Data System Advisory

Committee is hereby created to assist in the coordination and management of the statewide longitudinal data system ~~{developed}~~ *administered by the Office of Workforce Innovation* pursuant to section ~~[4 of this act.]~~ *20 of Senate Bill No. 516*. The Chancellor of the System, the Superintendent of Public Instruction and the Director of the Department of Employment, Training and Rehabilitation or their designees serve as ex officio members of the Committee.

2. The Committee may, by a vote of the majority of the Committee, nominate additional members for consideration by the Governor to be appointed to the Committee. The Governor may appoint a nominee to the Committee if the Governor determines that the addition of the nominee to the Committee is necessary or desirable.

3. Each appointed member of the Committee serves a term of 3 years and may be reappointed.

4. The Governor shall call the first meeting of the Committee. At its first meeting and annually thereafter, the members of the Committee shall elect a Chair and a Vice Chair from among the members of the Committee.

5. The Committee shall meet at least once each calendar year and, after its first meeting, at the call of the Chair.

6. The ~~{Department of Employment, Training and Rehabilitation}~~ *Office of Workforce Innovation* shall provide any administrative support necessary for the Committee to carry out its duties.

Sec. 7.7. Section 4 of this act is hereby amended to read as follows:

Sec. 4. 1. The Committee shall:

~~{1. Develop}~~

~~(a) Support and {oversee a} advise the Executive Director of the Office of Workforce Innovation regarding the maintenance and oversight of the statewide longitudinal data system ; {that links data relating to early childhood education programs and K-12 public education with data relating to postsecondary education and the workforce in this State;~~

~~—2.} (b) Develop a plan for collaborative research using data from the statewide longitudinal data system ; {developed pursuant to subsection 1;} and~~

~~{3.} (c) Advise and assist the System, the Department of Education , the Office of Workforce Innovation and the Department of Employment, Training and Rehabilitation in:~~

~~{(a)} (1) Applying for and obtaining grants of money for the operation of the statewide longitudinal data system {developed pursuant to subsection 1} or to carry out the work of the Committee;~~

~~{(b)} (2) Budgeting for the operation of the statewide longitudinal data system {developed pursuant to subsection 1} or to carry out the work of the Committee;~~

~~[(c)]~~ (3) Proposing legislation relating to the statewide longitudinal data system ~~[developed pursuant to subsection 1]~~ or to carry out the work of the Committee; and

~~[(d)]~~ (4) Matters relating to any contract for any services necessary for the operation or utilization of the statewide longitudinal data system ~~[developed pursuant to subsection 1]~~ or to carry out the work of the Committee.

2. *As used in this section, "statewide longitudinal data system" means the system administered by the Office of Workforce Innovation pursuant to section 20 of Senate Bill No. 516.*

Sec. 8. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 9. NRS 400.015, 400.025, 400.030, 400.035 and 400.040 are hereby repealed.

Sec. 10. 1. This section and sections 1 to 7, inclusive, 8 and 9 of this act become effective on July 1, 2017.

2. Sections 6.5, 7.3 and 7.7 of this act become effective on July 1, 2017, if and only if, Senate Bill No. 516 is enacted by the Legislature and approved by the Governor.

LEADLINES OF REPEALED SECTIONS

400.015 "Council" defined.

400.025 Legislative declaration.

400.030 Creation; membership; terms; vacancies.

400.035 Meetings; compensation of members; administrative support and other assistance.

400.040 Powers and duties.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 923 to Senate Bill No. 458 eliminates subsection 6 of section 3, which states that members of the P-20W Research Data System Advisory Committee serve without compensation and are not entitled to travel or per diem expenses.

Amendment adopted.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 458 revises provisions relating to the Statewide longitudinal data system, which links data from early childhood, K-12 and postsecondary education to workforce data. The bill abolishes the P-20W Advisory Council and creates the P-20W Research Data System Advisory Committee. The Committee will support and advise the Governor's Office of Workforce Innovation regarding the Statewide longitudinal data system, develop a plan for collaborative research, assist with certain duties relating to the statewide longitudinal data system and prepare and submit a biennial report of its activities. The bill provides technical language to allow the Committee's operational structure, regardless of the passage of Senate Bill No. 516.

Roll call on Senate Bill No. 458:

YEAS—19.

NAYS—Gustavson.

EXCUSED—Kieckhefer.

Senate Bill No. 458 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 497.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 497 creates the Advisory Task Force on School Leader Management to conduct a study during the 2017-2018 Interim. The study must consider the Statewide performance evaluation system as it relates to administrators, systems of school leader preparation, the qualifications for licensure and the recruitment, professional development and compensation of administrators. The bill requires the Task Force to submit a report of its activities, findings and recommendations to the Governor, the Director of the Legislative Counsel Bureau for transmittal to the 2019 Legislature, the State Board of Education, the Commission on Professional Standards in Education, and the Teachers and Leaders Council of Nevada on or before May 31, 2018.

Roll call on Senate Bill No. 497:

YEAS—20.

NAYS—None.

EXCUSED—Kieckhefer.

Senate Bill No. 497 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 2:24 p.m.

SENATE IN SESSION

At 5:07 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 194, 359, 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 was referred Assembly Bill No. 320, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MOISES DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 66, 132, 229, 490, 517, 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*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 123, 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 Revenue and Economic Development, to which was referred Assembly Bill No. 375, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Revenue and Economic Development, to which was referred Assembly Bill No. 486, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

JULIA RATTI, *Chair*

Mr. President:

Your Committee on Senate Parliamentary Rules and Procedures has approved the consideration of: Amendment No. 910 to Senate Bill No. 394 and Amendment No. 954 to Assembly Bill No. 25.

KELVIN ATKINSON, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 25, 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. 230, 322, 323, 356, 386, 502; Senate Joint Resolutions Nos. 4, 5.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 196, Amendment No. 887; Senate Bill No. 233, Amendments Nos. 913, 957, and respectfully requests your honorable body to concur in said amendments.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ratti moved that Assembly Bill No. 486, just reported out of Committee, be re-referred to the Committee on Finance.

Motion carried.

Senator Spearman moved that Senate Bill No. 394 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Farley moved that Assembly Bill No. 485 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 123.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 870.

SUMMARY—Revises provisions governing ~~the series created by a limited-liability company,~~ business organizations. (BDR 7-531)

AN ACT relating to business organizations; revising provisions governing the initial and annual lists filed with the Secretary of State by business entities; revising provisions relating to a series created by a limited-liability company; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each business entity organizing under the laws of this State or transacting business in this State to: (1) file with the Secretary of State an initial and an annual list of the directors and officers of the entity or the persons holding the equivalent office; and (2) pay a fee for that filing. Under existing law, the initial list must be filed with the Secretary of State on or before the last day of the month after the entity is organized or begins transacting business in this State or on an alternative date approved by the Secretary of State. (NRS 78.150, 80.110, 82.523, 86.263, 86.5461, 87.510, 87.541, 87A.290, 87A.560, 88.395, 88.591, 88A.600, 88A.732, 89.250) Sections 1-3, 8 and 11-20 of this bill require: (1) a domestic entity to file the initial list at the time that the domestic entity files its organizational documents with the Secretary of State or on the alternate date; and (2) a foreign entity to file the initial list at the time that the foreign entity registers with the Secretary of State to transact business in this State or on the alternate date. Under sections 1-3, 8 and 11-20, if an entity files an amended list within 60 days after the filing of its initial list, the Secretary of State must not charge a fee for filing that amended list.

Existing law authorizes the articles of organization or operating agreement of a limited-liability company to create one or more series of members with separate rights, powers or duties with respect to the property or obligations of the company. (NRS 86.296) Section ~~1.7~~ 7 of this bill requires a limited-liability company, if the company intends to create one or more series, to include in its articles of organization a statement to that effect. If the articles of organization include such a statement, section 9 of this bill authorizes a series to be created by the articles of organization or adoption of an operating agreement by the members of the series. Section ~~11~~ 4 of this bill provides that if the articles of organization or operating agreement of a limited-liability company ~~authorizes the creation of a~~ creates one or more series, the registered agent of the limited-liability company shall be deemed to be the registered agent of any series of the company.

Under existing law, the liabilities of a series are enforceable only against the assets of that series and not against the assets of the company or any other series if: (1) the articles of organization or an amendment to those articles contain certain statements indicating that the company is to have one or more such series; and (2) separate and distinct records are maintained for each series and the assets associated with each series are held, directly or indirectly, and accounted for separately from the other assets of the company and any other

series. (NRS 86.161, 86.296) Existing law further provides that property owned or purchased by a limited-liability company must be held, owned and conveyed in the name of the company. (NRS 86.311)

Section ~~12~~ 10 of this bill clarifies that a series may purchase, own and convey property in the name of the series, as an asset of the series. Section ~~12~~ 10 also specifies the persons who are authorized to bind a series to an instrument or record providing for the acquisition, mortgage or disposition of property by the series. Section ~~11.7~~ 9 expands the powers of a series to authorize a series to sue and be sued in its own name, make contracts in its own name and purchase, own and convey property. Section 9 also clarifies that the liabilities of a series are enforceable only against the assets of that series and not against the assets of the company or any other series if: (1) the articles of organization contain a statement indicating that the company is authorized to have one or more series; (2) separate and distinct records are maintained for each series and the assets associated with each series are held and accounted for separately; and (3) the articles of organization or operating agreement indicates that the liabilities with respect to a particular series are enforceable against only the assets of that series.

Existing law requires that a person doing business in this State under an assumed or fictitious name which is different from the legal name of each person who owns an interest in the business must file a certificate with the county clerk of each county in which the business is being conducted. (NRS 602.010) Section ~~13~~ 21 of this bill provides that a series shall be deemed to be doing business under an assumed name if the name of the series does not indicate: (1) that it is a series; and (2) the name of the limited-liability company which created the series. Section ~~14~~ 22 of this bill requires a series to provide certain information in the certificate required to be filed pursuant to section ~~13~~ 21.

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

Section 1. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, ~~on or before the last day of the first month after~~ at the time of the filing of its articles of incorporation with the Secretary of State or, if the corporation has selected an alternative due date pursuant to subsection ~~11.1~~ 12, on or before that alternative due date, file with the Secretary of State a list, on a form furnished by the Secretary of State, containing:

- (a) The name of the corporation;
- (b) The file number of the corporation, if known;
- (c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;
- (d) The address, either residence or business, of each officer and director listed, following the name of the officer or director; and

(e) The signature of an officer of the corporation, or some other person specifically authorized by the corporation to sign the list, certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, or, if, pursuant to subsection ~~111.1~~ 12, the corporation has selected an alternative due date for filing the list required by subsection 1, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State, on a form furnished by the Secretary of State, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that:

(1) The corporation has complied with the provisions of chapter 76 of NRS;

(2) The corporation acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State; and

(3) None of the officers or directors identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of an officer or director in furtherance of any unlawful conduct.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on the Secretary of State's Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of \$150.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less	\$150
Over \$75,000 and not over \$200,000	200
Over \$200,000 and not over \$500,000	300
Over \$500,000 and not over \$1,000,000	400
Over \$1,000,000:	
For the first \$1,000,000	400
For each additional \$500,000 or fraction thereof	275

➔ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is \$11,125.

5. If a corporation files an amended list of directors and officers with the Secretary of State within 60 days after the date on which the list required by subsection 1 is filed, the corporation or the resigning director or officer is not required to pay a fee for filing the amended list.

6. Except as otherwise provided in subsection 5, if a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~{6}~~ 7. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, provide to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice does not excuse it from the penalty imposed by law.

~~{7}~~ 8. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

~~{8}~~ 9. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

~~{9}~~ 10. A person who files with the Secretary of State a list required by subsection 1 or 2 which identifies an officer or director with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of an officer or director in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{10}~~ 11. For the purposes of this section, a stockholder is not deemed to exercise actual control of the daily operations of a corporation based solely on the fact that the stockholder has voting control of the corporation.

~~{11}~~ 12. The Secretary of State may allow a corporation to select an alternative due date for filing the list required by subsection 1.

~~{12}~~ 13. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{11}~~ 12.

Sec. 2. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, ~~for~~ on or before the last day of the first month after ~~at the time that~~ the information required by NRS 80.010 is filed with the Secretary of State, or, if the foreign corporation has selected an alternative due date pursuant to subsection ~~{9}~~ 10, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date

of the alternative due date occurs in each year, file with the Secretary of State a list, on a form furnished by the Secretary of State, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors; and

(b) The signature of an officer of the corporation or some other person specifically authorized by the corporation to sign the list.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that:

(1) The foreign corporation has complied with the provisions of chapter 76 of NRS;

(2) The foreign corporation acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State; and

(3) None of the officers or directors identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of an officer or director in furtherance of any unlawful conduct.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on the Secretary of State's Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of \$150.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less.....	\$150
Over \$75,000 and not over \$200,000	200
Over \$200,000 and not over \$500,000	300
Over \$500,000 and not over \$1,000,000	400
Over \$1,000,000:	
For the first \$1,000,000	400
For each additional \$500,000 or fraction thereof	275

➤ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is \$11,125.

4. If a foreign corporation files an amended list of directors and officers with the Secretary of State within 60 days after the date on which the initial list required by subsection 1 is filed, the foreign corporation or the resigning director or officer is not required to pay a fee for filing the amended list.

5. Except as otherwise provided in subsection 4, if a director or officer of a corporation resigns and the resignation is not reflected on the annual or

amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~{5}~~ 6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, provide to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 3 and a reminder to file the list pursuant to subsection 1. Failure of any corporation to receive a notice does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

~~{6}~~ 7. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~{7}~~ 8. A person who files with the Secretary of State a list required by subsection 1 which identifies an officer or director with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of an officer or director in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{8}~~ 9. For the purposes of this section, a stockholder is not deemed to exercise actual control of the daily operations of a corporation based solely on the fact that the stockholder has voting control of the corporation.

~~{9}~~ 10. The Secretary of State may allow a foreign corporation to select an alternative due date for filing the initial list required by subsection 1.

~~{10}~~ 11. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{9}~~ 10.

Sec. 3. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, ~~on or before the last day of the first month after,~~ at the time of the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, or, if the foreign nonprofit corporation has selected an alternative due date pursuant to subsection ~~{9}~~ 10, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State a list, on a form furnished by the Secretary of State, that contains:

- (a) The name of the foreign nonprofit corporation;
- (b) The file number of the foreign nonprofit corporation, if known;
- (c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;
- (d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation; and

(e) The signature of an officer of the foreign nonprofit corporation, or some other person specifically authorized by the foreign nonprofit corporation to sign the list, certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that:

(a) The foreign nonprofit corporation has complied with the provisions of chapter 76 of NRS;

(b) The foreign nonprofit corporation acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State; and

(c) None of the officers or directors identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of an officer or director in furtherance of any unlawful conduct.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of \$50.

4. *If a foreign nonprofit corporation files an amended list of officers and directors with the Secretary of State within 60 days after the filing of the initial list pursuant to this section, the foreign nonprofit corporation is not required to pay a fee for filing the amended list.*

5. The Secretary of State shall, 60 days before the last day for filing each annual list, provide to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.524, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign nonprofit corporation to receive a notice does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.524, inclusive.

~~5.~~ 6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

~~6.~~ 7. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~7.~~ 8. A person who files with the Secretary of State a list pursuant to this section which identifies an officer or director with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of an officer or director in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~8.~~ 9. For the purposes of this section, a member of a foreign nonprofit corporation is not deemed to exercise actual control of the daily operations of the foreign nonprofit corporation based solely on the fact that the member has voting control of the foreign nonprofit corporation.

~~10.~~ 10. The Secretary of State may allow a foreign nonprofit corporation to select an alternative due date for filing the initial list required by this section.

~~10.~~ 11. The Secretary of State may adopt regulations to administer the provisions of subsection ~~10.~~ 10.

~~Section 1.~~ Sec. 4. Chapter 86 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If the articles of organization or operating agreement of a limited-liability company ~~authorizes the creation of a~~ creates one or more series, the registered agent of the company shall be deemed to be the registered agent for each series of the limited-liability company.*

2. *Each series may be served with any legal process, notice or demand required or authorized by law by serving the registered agent of the limited-liability company which authorized the creation of the series.*

~~Sec. 1.3.~~ Sec. 5. NRS 86.061 is hereby amended to read as follows:

86.061 "Limited-liability company" or "company" means a limited-liability company organized *by filing articles of organization with the Secretary of State* and existing under this chapter, including a restricted limited-liability company.

~~Sec. 1.5.~~ Sec. 6. NRS 86.1255 is hereby amended to read as follows:

86.1255 "Series" and "series of members" are synonymous terms and, unless the context otherwise requires, ~~mean a series of members' interests having separate rights, powers or duties with respect to property, obligations or profits and losses associated with property or obligations, which are specified in the articles of organization or operating agreement or specified by one or more members or managers or other persons as provided in the articles of organization or operating agreement.~~ *means a limited-liability company whose creation has been authorized pursuant to subsection 2 of NRS 86.296 by a limited-liability company formed by filing articles of organization with the Secretary of State pursuant to NRS 86.151.*

Sec. 7. NRS 86.161 is hereby amended to read as follows:

86.161 1. The articles of organization must set forth:

(a) The name of the limited-liability company;
 (b) The information required pursuant to NRS 77.310;
 (c) The name and address, either residence or business, of each of the organizers signing the articles;

(d) If the company is to be managed by:

(1) One or more managers, the name and address, either residence or business, of each initial manager; or

(2) The members, the name and address, either residence or business, of each initial member;

(e) If the company is *authorized* to have one or more series of members, ~~and the debts or liabilities of any series are to be enforceable against the assets of that series only and not against the assets of another series or the company generally,~~ a statement to that effect; ~~and a statement:~~

~~(1) Setting forth the relative rights, powers and duties of the series; or~~

~~(2) Indicating that the relative rights, powers and duties of the series will be set forth in the operating agreement or established as provided in the operating agreement;]~~ and

(f) If the company is to be a restricted limited-liability company, a statement to that effect.

2. The articles may set forth any other provision, not inconsistent with law, which the members elect to set out in the articles of organization for the regulation of the internal affairs of the company, including any provisions which under this chapter are required or permitted to be set out in the operating agreement of the company.

3. It is not necessary to set out in the articles of organization:

(a) The rights of the members to contract debts on behalf of the limited-liability company if the limited-liability company is managed by its members;

(b) The rights of the manager or managers to contract debts on behalf of the limited-liability company if the limited-liability company is managed by a manager or managers; or

(c) Any of the powers enumerated in this chapter.

Sec. 8. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, ~~on or before the last day of the first month after]~~ at the time of the filing of its articles of organization with the Secretary of State, or, if the limited-liability company has selected an alternative due date pursuant to subsection ~~(11)~~ 12, on or before that alternative due date, file with the Secretary of State, on a form furnished by the Secretary of State, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member; and

(e) The signature of a manager or managing member of the limited-liability company, or some other person specifically authorized by the limited-liability company to sign the list, certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, or, if, pursuant to subsection ~~(11)~~ 12, the limited-liability company has selected an alternative due date for filing the list required by subsection 1, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State, on a form furnished by the Secretary of State, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that:

(a) The limited-liability company has complied with the provisions of chapter 76 of NRS;

(b) The limited-liability company acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State; and

(c) None of the managers or managing members identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a manager or managing member in furtherance of any unlawful conduct.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of \$150.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of \$150.

5. If a limited-liability company files an amended list of managers and managing members with the Secretary of State within 60 days after the date on which the initial list required by subsection 1 is filed, the limited-liability company or the resigning manager or managing member is not required to pay a fee for filing the amended list.

6. Except as otherwise provided in subsection 5, if a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~6.~~ 7. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, provide to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file the list required by subsection 2. Failure of any company to receive a notice does not excuse it from the penalty imposed by law.

~~7.~~ 8. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

~~8.~~ 9. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

~~9.~~ 10. A person who files with the Secretary of State a list required by subsection 1 or 2 which identifies a manager or managing member with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a manager or managing member in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~10.~~ 11. For the purposes of this section, a member is not deemed to exercise actual control of the daily operations of a limited-liability company based solely on the fact that the member has voting control of the limited-liability company.

~~[[1]]~~ 12. The Secretary of State may allow a limited-liability company to select an alternative due date for filing the list required by subsection 1.

~~[[2]]~~ 13. The Secretary of State may adopt regulations to administer the provisions of subsection ~~[[1]]~~ 12.

~~[Sec. 1.7.]~~ *Sec. 9.* NRS 86.296 is hereby amended to read as follows:

86.296 1. The articles of organization or operating agreement of a limited-liability company may create classes of members or managers, define their relative rights, powers and duties, and may authorize the creation, in the manner provided in the operating agreement, of additional classes of members or managers with the relative rights, powers and duties as may from time to time be established, including, without limitation, rights, powers and duties senior to existing classes of members or managers. The articles of organization or operating agreement may provide that any member, or class or group of members, has voting rights that differ from other classes or groups.

2. The articles of organization or operating agreement of a limited-liability company may ~~create~~ *authorize the creation of* one or more series of members, or vest authority in one or more members or managers of the company or in other persons to create one or more series of members, including, without limitation, rights, powers and duties senior to existing series of members. *A series may be created as a limited-liability company, without the filing of articles of organization with the Secretary of State, by the adoption of an operating agreement by the members of the series.* The ~~articles of organization or~~ operating agreement of the series may provide that any member associated with ~~the~~ the series has voting rights that differ from other members or series, or no voting rights at all. A series may ~~have~~ :

(a) *Have separate powers, rights or duties with respect to specified property or obligations of the company or profits and losses associated with specified property or obligations* ~~[-, and any series may have]~~ ;

(b) *Have a separate business purpose or investment objective* ~~[-]~~ ;

(c) *Sue and be sued, complain and defend, in its own name;*

(d) *Make contracts in its own name;*

(e) *Purchase, take, receive, lease or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or an interest in it, wherever situated; and*

(f) *Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.*

3. The debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series, if:

(a) Separate and distinct records are maintained for the series and the assets associated with the series are held, directly or indirectly, including through a nominee or otherwise, and accounted for separately from the other assets of the company and any other series; and

(b) ~~{The articles of organization comply, or an amendment to the articles complies, with the provisions of paragraph (c) of subsection 1 of NRS 86.161. Unless otherwise provided in the articles of organization or operating agreement, no debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the company generally or any other series are enforceable against the assets of the series.}~~

~~4.}~~ The articles of organization or operating agreement ~~{may provide}~~ provides that the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series.

~~{5.}~~ 4. Unless otherwise provided in the articles of organization or operating agreement, any event described in this chapter or in the articles of organization or operating agreement that causes a manager to cease to be a manager with respect to a series does not, in itself, cause the manager to cease to be a manager with respect to the company or with respect to any other series. Unless otherwise provided in the articles of organization or operating agreement, any event described in this chapter or in the articles of organization or operating agreement that causes a manager to cease to be associated with a series does not, in itself, cause the member to cease to be associated with any other series, terminate the continued membership of a member in the company or cause the termination of the series, regardless of whether the member was the last remaining member associated with the series.

~~{Sec. 2.}~~ *Sec. 10.* NRS 86.311 is hereby amended to read as follows:

86.311 ~~{Real}~~

1. Except as otherwise provided in subsection 2, real and personal property owned or purchased by a company must be held and owned, and conveyance made, in the name of the company. Except as otherwise provided in the company's articles of organization or operating agreement, instruments and records providing for the acquisition, mortgage or disposition of property of the company are valid and binding upon the company if signed by:

~~{1.}~~ (a) One or more managers of a company which is managed by a manager or managers;

~~{2.}~~ (b) Any member of a company which is managed by its members;

~~{3.}~~ (c) Any agent, officer, employee or other representative of the company authorized in the operating agreement or in another writing by a manager or managers, if the company is managed by a manager or managers; or

~~{4.}~~ (d) Any agent, officer, employee or other representative of the company authorized in the operating agreement or in another writing by a member, if the company is managed by its members.

2. Real and personal property may be purchased, owned and conveyed by a series separately in the name of the series, as the asset of the series only. Except as otherwise provided in the articles of organization or operating agreement of the series, instruments and records providing for the acquisition,

mortgage or disposition of property by a series are valid and binding upon the series if signed by:

(a) One or more managers of the series, if the series is managed by a manager or managers;

(b) Any member associated with the series, if the series is managed by the members associated with the series;

(c) Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a manager or managers of the series, if the series is managed by a manager or managers; or

(d) Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a member associated with the series, if the series is managed by its members.

Sec. 11. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, ~~on or before the last day of the first month after,~~ *at the time of the* filing of its application for registration as a foreign limited-liability company with the Secretary of State, or, if the foreign limited-liability company has selected an alternative due date pursuant to subsection ~~10,~~ *11*, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State a list on a form furnished by the Secretary of State that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c); and

(e) The signature of a manager or managing member of the foreign limited-liability company, or some other person specifically authorized by the foreign limited-liability company to sign the list, certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that:

(a) The foreign limited-liability company has complied with the provisions of chapter 76 of NRS;

(b) The foreign limited-liability company acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State; and

(c) None of the managers or managing members identified in the list has been identified in the list with the fraudulent intent of concealing the identity

of any person or persons exercising the power or authority of a manager or managing member in furtherance of any unlawful conduct.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of \$150.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of \$150.

4. If a foreign limited-liability company files an amended list of managers and managing members with the Secretary of State within 60 days after the date on which the initial list required by this section is filed, the foreign limited-liability company or the resigning manager or managing member is not required to pay a fee for filing the amended list.

5. Except as otherwise provided in subsection 4, if a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~5.1~~ 6. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, provide to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign limited-liability company to receive a notice does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

~~6.1~~ 7. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

~~7.1~~ 8. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

~~8.1~~ 9. A person who files with the Secretary of State a list required by this section which identifies a manager or managing member with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a manager or managing members in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~9.1~~ 10. For the purposes of this section, a member is not deemed to exercise actual control of the daily operations of a foreign limited-liability company based solely on the fact that the member has voting control of the foreign limited-liability company.

~~10.1~~ 11. The Secretary of State may allow a foreign limited-liability company to select an alternative due date for filing the initial list required by this section.

~~{11}~~ 12. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{10}~~ 11.

Sec. 12. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, ~~on or before the last day of the first month after~~ at the time of the filing of its certificate of registration with the Secretary of State, or, if the registered limited-liability partnership has selected an alternative due date pursuant to subsection ~~{8}~~ 10, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State, on a form furnished by the Secretary of State, a list that contains:

- (a) The name of the registered limited-liability partnership;
- (b) The file number of the registered limited-liability partnership, if known;
- (c) The names of all of its managing partners;
- (d) The address, either residence or business, of each managing partner; and
- (e) The signature of a managing partner of the registered limited-liability partnership, or some other person specifically authorized by the registered limited-liability partnership to sign the list, certifying that the list is true, complete and accurate.

~~{1}~~

2. Each list filed pursuant to ~~{this}~~ subsection 1 must be accompanied by a declaration under penalty of perjury that ~~{the}~~ :

(a) The registered limited-liability partnership has complied with the provisions of chapter 76 of NRS ~~{, that the}~~ :

(b) The registered limited-liability partnership acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State ; and ~~{that none}~~

(c) None of the managing partners identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a managing partner in furtherance of any unlawful conduct.

~~{2}~~ 3. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of \$150.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of \$150.

~~{3}~~ 4. If a registered limited-liability partnership files an amended list of managing partners with the Secretary of State within 60 days after the date on which the initial list required by subsection 1 is filed, the registered limited-liability partnership or the resigning managing partner is not required to pay a fee for filing the amended list.

5. Except as otherwise provided in subsection 4, if a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~{4}~~ 6. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, provide to the registered limited-liability partnership a notice of the fee due pursuant to subsection ~~{2}~~ 3 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice does not excuse it from complying with the provisions of this section.

~~{5}~~ 7. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection ~~{2}~~ 3 is not paid, the Secretary of State may return the list for correction or payment.

~~{6}~~ 8. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~{7}~~ 9. A person who files with the Secretary of State an initial list or annual list required by subsection 1 which identifies a managing partner with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a managing partner in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{8}~~ 10. The Secretary of State may allow a registered limited-liability partnership to select an alternative due date for filing the initial list required by subsection 1.

~~{9}~~ 11. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{8}~~ 10.

Sec. 13. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, ~~[on or before the last day of the first month after]~~ at the time of the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, or, if the foreign registered limited-liability partnership has selected an alternative due date pursuant to subsection ~~{9}~~ 10, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State a list, on a form furnished by the Secretary of State, that contains:

- (a) The name of the foreign registered limited-liability partnership;
- (b) The file number of the foreign registered limited-liability partnership, if known;
- (c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner; and
(e) The signature of a managing partner of the foreign registered limited-liability partnership, or some other person specifically authorized by the foreign registered limited-liability partnership to sign the list, certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that:

(a) The foreign registered limited-liability partnership has complied with the provisions of chapter 76 of NRS;

(b) The foreign registered limited-liability partnership acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State; and

(c) None of the managing partners identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a managing partner in furtherance of any unlawful conduct.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of \$150.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of \$150.

4. If a foreign registered limited-liability partnership files an amended list of managing partners with the Secretary of State within 60 days after the date on which the initial list required by this section is filed, the foreign registered limited-liability partnership or the resigning managing partner is not required to pay a fee for filing the amended list.

5. Except as otherwise provided in subsection 4, if a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~{5.}~~ 6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, provide to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.5443, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign registered limited-liability partnership to receive a notice does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.5443, inclusive.

~~{6.}~~ 7. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

~~{7.}~~ 8. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and

does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~{8.}~~ 9. A person who files with the Secretary of State an initial list or annual list required by subsection 1 which identifies a managing partner with the fraudulent intent of concealing the identity of any person or persons exercising the power and authority of a managing partner in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{9.}~~ 10. The Secretary of State may allow a foreign registered limited-liability partnership to select an alternative due date for filing the initial list required by this section.

~~{10.}~~ 11. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{9.}~~ 10.

Sec. 14. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, ~~on or before the last day of the first month after~~ at the time of the filing of its certificate of limited partnership with the Secretary of State, or, if the limited partnership has selected an alternative due date pursuant to subsection ~~{10.}~~ 12. on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State, on a form furnished by the Secretary of State, a list that contains:

- (a) The name of the limited partnership;
- (b) The file number of the limited partnership, if known;
- (c) The names of all of its general partners;
- (d) The address, either residence or business, of each general partner; and
- (e) The signature of a general partner of the limited partnership, or some other person specifically authorized by the limited partnership to sign the list, certifying that the list is true, complete and accurate.

~~{11.}~~ 2. Each list filed pursuant to ~~{this}~~ subsection 1 must be accompanied by a declaration under penalty of perjury that ~~{the}~~ :

(a) The limited partnership has complied with the provisions of chapter 76 of NRS ~~{, that the}~~ :

(b) The limited partnership acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State ~~{,}~~ and ~~{that none}~~

(c) None of the general partners identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a general partner in furtherance of any unlawful conduct.

~~{2.}~~ 3. Except as otherwise provided in subsection ~~{3.}~~ 4. a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$150.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$150.

~~{3.}~~ 4. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$150.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$150.

~~{4.}~~ 5. If a limited partnership files an amended list of general partners with the Secretary of State within 60 days after the date on which the initial list required by subsection 1 is filed, the limited partnership or the resigning general partner is not required to pay a fee for filing the amended list.

6. Except as otherwise provided in subsection 5, if a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~{5.}~~ 7. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, provide to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection ~~{2.}~~ 3 or ~~{3.}~~ 4 as appropriate, and a reminder to file the annual list required pursuant to subsection 1. Failure of any limited partnership to receive a notice does not excuse it from the penalty imposed by NRS 87A.300.

~~{6.}~~ 8. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection ~~{2.}~~ 3 or ~~{3.}~~ 4, as appropriate, is not paid, the Secretary of State may return the list for correction or payment.

~~{7.}~~ 9. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~{8.}~~ 10. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

~~{9.}~~ 11. A person who files with the Secretary of State a list required by subsection 1 which identifies a general partner with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a general partner in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{10.}~~ 12. The Secretary of State may allow a limited partnership to select an alternative due date for filing the initial list required by subsection 1.

~~{11.}~~ 13. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{10.}~~ 12.

Sec. 15. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, ~~on or before the last day of the first month after,~~ at the time of the filing of its application for registration as a foreign limited partnership with the Secretary of State, or, if the foreign limited partnership has selected an alternative due date pursuant to subsection ~~9,~~ 10, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State a list, on a form furnished by the Secretary of State, that contains:

- (a) The name of the foreign limited partnership;
- (b) The file number of the foreign limited partnership, if known;
- (c) The names of all its general partners;
- (d) The address, either residence or business, of each general partner; and
- (e) The signature of a general partner of the foreign limited partnership, or some other person specifically authorized by the foreign limited partnership to sign the list, certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that:

- (a) The foreign limited partnership has complied with the provisions of chapter 76 of NRS;

- (b) The foreign limited partnership acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State; and

- (c) None of the general partners identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a general partner in furtherance of any unlawful conduct.

3. Upon filing:

- (a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$150.

- (b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$150.

4. If a foreign limited partnership files an amended list of general partners with the Secretary of State within 60 days after the date on which the initial list required by this section is filed, the foreign limited partnership or the resigning general partner is not required to pay a fee for filing the amended list.

5. Except as otherwise provided in subsection 4, if a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation of the general partner.

~~{5}~~ 6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, provide to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign limited partnership to receive a notice does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

~~{6}~~ 7. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

~~{7}~~ 8. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~{8}~~ 9. A person who files with the Secretary of State a list required by this section which identifies a general partner with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a general partner in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{9}~~ 10. The Secretary of State may allow a foreign limited partnership to select an alternative due date for filing the initial list required by this section.

~~{10}~~ 11. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{9}~~ 10.

Sec. 16. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, ~~on or before the last day of the first month after~~ at the time of the filing of its certificate of limited partnership with the Secretary of State, or, if the limited partnership has selected an alternative due date pursuant to subsection ~~{10}~~ 12, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State, on a form furnished by the Secretary of State, a list that contains:

- (a) The name of the limited partnership;
- (b) The file number of the limited partnership, if known;
- (c) The names of all of its general partners;
- (d) The address, either residence or business, of each general partner; and
- (e) The signature of a general partner of the limited partnership, or some other person specifically authorized by the limited partnership to sign the list, certifying that the list is true, complete and accurate.

~~{11}~~ 2. Each list filed pursuant to ~~{this}~~ subsection 1 must be accompanied by a declaration under penalty of perjury that ~~{the}~~ :

(a) The limited partnership has complied with the provisions of chapter 76 of NRS ~~1, that the~~ ;

(b) The limited partnership acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State ~~;~~ ~~1,~~ and ~~(that none)~~

(c) None of the general partners identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a general partner in furtherance of any unlawful conduct.

~~2,~~ 3. Except as otherwise provided in subsection ~~3,~~ 4, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$150.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$150.

~~3,~~ 4. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$150.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$200.

~~4,~~ 5. If a limited partnership files an amended list of general partners with the Secretary of State within 60 days after the date on which the initial list required by subsection 1 is filed, the limited partnership or the resigning general partner is not required to pay a fee for filing the amended list.

6. Except as otherwise provided in subsection 5, if a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~5,~~ 7. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, provide to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection ~~2,~~ 3 or ~~3,~~ 4, as appropriate, and a reminder to file the annual list required pursuant to subsection 1. Failure of any limited partnership to receive a notice does not excuse it from the penalty imposed by NRS 88.400.

~~6,~~ 8. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection ~~2,~~ 3 or ~~3,~~ 4 is not paid, the Secretary of State may return the list for correction or payment.

~~7,~~ 9. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~§ 9.~~ 10. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

~~§ 9.~~ 11. A person who files with the Secretary of State a list required by subsection 1 which identifies a general partner with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a general partner in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~§ 10.~~ 12. The Secretary of State may allow a limited partnership to select an alternative due date for filing the initial list required by subsection 1.

~~§ 11.~~ 13. The Secretary of State may adopt regulations to administer the provisions of subsection ~~§ 10.~~ 12.

Sec. 17. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, ~~on or before the last day of the first month after~~ at the time of the filing of its application for registration as a foreign limited partnership with the Secretary of State, or, if the foreign limited partnership has selected an alternative due date pursuant to subsection ~~§ 9.~~ 10. on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State a list, on a form furnished by the Secretary of State, that contains:

- (a) The name of the foreign limited partnership;
- (b) The file number of the foreign limited partnership, if known;
- (c) The names of all its general partners;
- (d) The address, either residence or business, of each general partner; and
- (e) The signature of a general partner of the foreign limited partnership, or some other person specifically authorized by the foreign limited partnership to sign the list, certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that:

- (a) The foreign limited partnership has complied with the provisions of chapter 76 of NRS;

- (b) The foreign limited partnership acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State; and

- (c) None of the general partners identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a general partner in furtherance of any unlawful conduct.

3. Upon filing:

- (a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$150.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$150.

4. If a foreign limited partnership files an amended list of general partners with the Secretary of State within 60 days after the date on which the initial list required by this section is filed, the foreign limited partnership or the resigning general partner is not required to pay a fee for filing the amended list.

5. Except as otherwise provided in subsection 4, if a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation of the general partner.

~~5.~~ 6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, provide to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign limited partnership to receive a notice does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

~~6.~~ 7. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

~~7.~~ 8. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~8.~~ 9. A person who files with the Secretary of State a list required by this section which identifies a general partner with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a general partner in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~9.~~ 10. The Secretary of State may allow a foreign limited partnership to select an alternative due date for filing the initial list required by this section.

~~10.~~ 11. The Secretary of State may adopt regulations to administer the provisions of subsection ~~9.~~ 10.

Sec. 18. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, ~~on or before the last day of the first month after~~ at the time of the filing of its certificate of trust with the Secretary of State, or, if the business trust has selected an alternative due date pursuant to subsection ~~8.~~ 9, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, or, if applicable, on or before the last day of the month in which the anniversary date of the

alternative due date occurs in each year, on a form furnished by the Secretary of State, a list signed by at least one trustee, or by some other person specifically authorized by the business trust to sign the list, that contains the name and street address of at least one trustee. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that:

(a) The business trust has complied with the provisions of chapter 76 of NRS;

(b) The business trust acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State; and

(c) None of the trustees identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a trustee in furtherance of any unlawful conduct.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of \$150.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of \$150.

3. If a business trust files an amended list of trustees with the Secretary of State within 60 days after the date on which the initial list required by subsection 1 is filed, the business trust or the resigning trustee is not required to pay a fee for filing the amended list.

4. Except as otherwise provided in subsection 3, if a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~{4}~~ 5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, provide to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.665, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 2 and a reminder to file the list required pursuant to subsection 1. Failure of a business trust to receive a notice does not excuse it from the penalty imposed by law.

~~{5}~~ 6. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

~~{6}~~ 7. A person who files with the Secretary of State an initial list or annual list required by subsection 1 which identifies a trustee with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a trustee in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{7}~~ 8. For the purposes of this section, a person who is a beneficial owner is not deemed to exercise actual control of the daily operations of a business trust based solely on the fact that the person is a beneficial owner.

~~§ 9.~~ 9. The Secretary of State may allow a business trust to select an alternative due date for filing the initial list required by subsection 1.

~~§ 10.~~ 10. The Secretary of State may adopt regulations to administer the provisions of subsection ~~§ 9.~~ 9.

Sec. 19. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, ~~on or before the last day of the first month after~~ *at the time of* the filing of its application for registration as a foreign business trust with the Secretary of State, or, if the foreign business trust has selected an alternative due date pursuant to subsection ~~10.~~ 11., on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State a list, on a form furnished by the Secretary of State, that contains:

- (a) The name of the foreign business trust;
- (b) The file number of the foreign business trust, if known;
- (c) The name of at least one of its trustees;
- (d) The address, either residence or business, of the trustee listed pursuant to paragraph (c); and
- (e) The signature of a trustee of the foreign business trust, or some other person specifically authorized by the foreign business trust to sign the list, certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that:

- (a) The foreign business trust has complied with the provisions of chapter 76 of NRS;
- (b) The foreign business trust acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State; and
- (c) None of the trustees identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a trustee in furtherance of any unlawful conduct.

3. Upon filing:

- (a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of \$150.
- (b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of \$150.

4. If a foreign business trust files an amended list of trustees with the Secretary of State within 60 days after the date on which the initial list required by this section is filed, the foreign business trust or the resigning trustee is not required to pay a fee for filing the amended list.

5. Except as otherwise provided in subsection 4, if a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of \$75 to file the resignation.

~~{5.}~~ 6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, provide to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign business trust to receive a notice does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

~~{6.}~~ 7. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

~~{7.}~~ 8. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

~~{8.}~~ 9. A person who files with the Secretary of State a list required by this section which identifies a trustee with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a trustee in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{9.}~~ 10. For the purposes of this section, a person who is a beneficial owner is not deemed to exercise actual control of the daily operations of a foreign business trust based solely on the fact that the person is a beneficial owner.

~~{10.}~~ 11. The Secretary of State may allow a foreign business trust to select an alternative due date for filing the initial list required by this section.

~~{11.}~~ 12. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{10.}~~ 11.

Sec. 20. NRS 89.250 is hereby amended to read as follows:

89.250 1. Except as otherwise provided in subsection 2, a professional association shall, ~~[on or before the last day of the first month after]~~ at the time of the filing of its articles of association with the Secretary of State, or, if the professional association has selected an alternative due date pursuant to subsection ~~{7.}~~ 8, on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State a list showing the names and addresses, either residence or business, of all members and employees in the professional association and certifying that all members and employees are licensed to render professional service in this State.

2. A professional association organized and practicing pursuant to the provisions of this chapter and NRS 623.349 shall, ~~on or before the last day of the first month after~~ at the time of the filing of its articles of association with the Secretary of State, or, if the professional association has selected an alternative due date pursuant to subsection ~~(7.)~~ 8. on or before that alternative due date, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, or, if applicable, on or before the last day of the month in which the anniversary date of the alternative due date occurs in each year, file with the Secretary of State a list:

(a) Showing the names and addresses, either residence or business, of all members and employees of the professional association who are licensed or otherwise authorized by law to render professional service in this State;

(b) Certifying that all members and employees who render professional service are licensed or otherwise authorized by law to render professional service in this State; and

(c) Certifying that all members who are not licensed to render professional service in this State do not render professional service on behalf of the professional association except as authorized by law.

3. Each list filed pursuant to this section must be:

(a) Made on a form furnished by the Secretary of State and must not contain any fiscal or other information except that expressly called for by this section.

(b) Signed by the chief executive officer of the professional association or by some other person specifically authorized by the chief executive officer to sign the list.

(c) Accompanied by a declaration under penalty of perjury that:

(1) The professional association has complied with the provisions of chapter 76 of NRS;

(2) The professional association acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State; and

(3) None of the members or employees identified in the list has been identified in the list with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a member or employee in furtherance of any unlawful conduct.

4. Upon filing:

(a) The initial list required by this section, the professional association shall pay to the Secretary of State a fee of \$150.

(b) Each annual list required by this section, the professional association shall pay to the Secretary of State a fee of \$150.

5. If a professional association files an amended list of members and employees with the Secretary of State within 60 days after the date on which the initial list required by this section is filed, the professional association is not required to pay a fee for filing the amended list.

6. A person who files with the Secretary of State an initial list or annual list required by this section which identifies a member or an employee of a professional association with the fraudulent intent of concealing the identity of any person or persons exercising the power or authority of a member or employee in furtherance of any unlawful conduct is subject to the penalty set forth in NRS 225.084.

~~{6.}~~ 7. For the purposes of this section, a person is not deemed to exercise actual control of the daily operations of a professional association based solely on the fact that the person holds an ownership interest in the professional association.

~~{7.}~~ 8. The Secretary of State may allow a professional association to select an alternative due date for filing the initial list required by this section.

~~{8.}~~ 9. The Secretary of State may adopt regulations to administer the provisions of subsection ~~{7.}~~ 8.

~~{Sec. 3.}~~ *Sec. 21.* NRS 602.010 is hereby amended to read as follows:

602.010 1. Every person doing business in this state under an assumed or fictitious name that is in any way different from the legal name of each person who owns an interest in the business must file with the county clerk of each county in which the business is being conducted a certificate containing the information required by NRS 602.020.

2. A person intending to conduct a business under an assumed or fictitious name may, before initiating the conduct of the business, file a certificate with the county clerk of each county in which the business is intended to be conducted.

3. *A series created pursuant to NRS 86.296 and doing business in this State shall be deemed to be doing business in this State under an assumed or fictitious name that is different from the legal name of each person who owns an interest in the business, if the name of the series does not indicate:*

(a) That it is a series; and

(b) The name of the limited-liability company which authorized the creation of the series pursuant to NRS 86.296.

~~{Sec. 4.}~~ *Sec. 22.* NRS 602.020 is hereby amended to read as follows:

602.020 1. A certificate filed pursuant to NRS 602.010 or a renewal certificate filed pursuant to NRS 602.035 must state the assumed or fictitious name under which the business is being conducted or is intended to be conducted, and if conducted by:

(a) A natural person:

(1) His or her full name;

(2) The street address of his or her residence or business; and

(3) If the mailing address is different from the street address, the mailing address of his or her residence or business;

(b) An artificial person:

(1) Its name; and

(2) Its mailing address;

(c) A general partnership:

- (1) The full name of each partner who is a natural person;
- (2) The street address of the residence or business of each partner who is a natural person;
- (3) If the mailing address is different from the street address, the mailing address of the residence or business of each partner who is a natural person; and
- (4) If one or more of the partners is an artificial person described in paragraph (b), the information required by paragraph (b) for each such partner; ~~for~~

(d) A trust:

- (1) The full name of each trustee of the trust;
- (2) The street address of the residence or business of each trustee of the trust; and
- (3) If the mailing address is different from the street address, the mailing address of the residence or business of each trustee of the trust ~~for~~; or

(e) A series created pursuant to NRS 86.296:

- (1) The name of the limited-liability company which authorized the creation of the series;
- (2) The street address of the limited-liability company which authorized the creation of the series; and
- (3) If the mailing address is different from the street address, the mailing address of the limited-liability company which authorized the creation of the series.

2. The certificate must be:

(a) Signed:

- (1) In the case of a natural person, by that natural person;
- (2) In the case of an artificial person, by an officer, director, manager, general partner, trustee or other natural person having the authority to bind the artificial person to a contract;
- (3) In the case of a general partnership, by each of the partners who is a natural person and, if one or more of the partners is an artificial person described in subparagraph (2), by the person described in subparagraph (2); ~~for~~

- (4) In the case of a trust, by each of the trustees; ~~and~~ or

- (5) In the case of a series created pursuant to NRS 86.296, by:

(I) One or more managers of the series, if the series is managed by a manager or managers;

(II) Any member associated with the series, if the series is managed by the members associated with the series;

(III) Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a manager or managers of the series, if the series is managed by a manager or managers; or

(IV) Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a member associated with the series, if the series is managed by its members; and

(b) Notarized, unless the board of county commissioners of the county adopts an ordinance providing that the certificate may be filed without being notarized.

3. As used in this section:

(a) "Artificial person" means any organization organized under the law of the United States, any foreign country, or a state, province, territory, possession, commonwealth or dependency of the United States or any foreign country, and as to which the government, state, province, territory, possession, commonwealth or dependency must maintain a record showing the organization to have been organized.

(b) "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

~~[Sec. 5.]~~ Sec. 23. The amendatory provisions of sections ~~[1 to 2, inclusive]~~ 4, 5, 7, 9 and 10 of this act:

1. Apply to any transfer or conveyance of property occurring before, on or after October 1, 2017; and

2. Apply to any administrative or judicial proceedings:

(a) Commenced on or after October 1, 2017; or

(b) Commenced before October 1, 2017, if the proceedings are pending or otherwise unresolved on October 1, 2017.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 870 to Assembly Bill No. 123 requires a domestic business entity to file an initial list of its directors and officers at the time that the entity files its organizational documents with the Secretary of State or on an alternate date approved by the Secretary of State; requires a foreign entity to file the initial list at the time that the entity registers with the Secretary of State or on an approved alternate date; provides that if an entity files an amended list within 60 days after the filing of its initial list, the Secretary of State must not charge a fee for filing that amended list; requires a limited-liability company, if the company intends to create one or more series, to include in its articles of organization a statement to that effect and if the articles of organization include such a statement; provides that if the articles of organization or operating agreement of a limited-liability company creates one or more series, the registered agent of the limited-liability company shall be deemed to be the registered agent of any series of the company; clarifies that the liabilities of a series are enforceable only against the assets of that series and not against the assets of the company or any other series if the articles of organization contain a statement indicating that the company is authorized to have one or more series; separate and distinct records are maintained for each series and the assets associated with each series are held and accounted for separately; and the articles of organization or operating agreement indicates that the liabilities with respect to a particular series are enforceable against only the assets of that series.

Amendment adopted.

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

Assembly Bill No. 194.

Bill read second time.

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

Amendment No. 857.

SUMMARY—Provides for the certification of behavioral healthcare peer recovery support specialists. (BDR 54-712)

AN ACT relating to professions; providing for the certification of behavioral healthcare peer recovery support specialists by the Board of Examiners for Alcohol, Drug and Gambling Counselors; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Board of Examiners for Alcohol, Drug and Gambling Counselors and authorizes the Board to license or certify persons engaged in the practice or clinical practice of counseling alcohol and drug abusers and problem gamblers. (Chapter 641C of NRS)

Sections 4-7 of this bill require the Board to issue a certificate as a behavioral healthcare peer recovery support specialist to authorize a person to give nonprofessional, nonclinical assistance for compensation for long-term recovery from substance use and other mental disorders by sharing appropriate portions of the person's own recovery. Section 5.5 provides that the practice of providing behavioral healthcare peer recovery support specialist services is a lived-experience profession that affects public health, safety and welfare and is subject to regulation. Section 6 establishes the requirements for obtaining a certificate as a behavioral healthcare peer recovery support specialist which include the payment of a fee for the application, issuance or renewal of a certificate pursuant to section 18 ~~of~~ of this bill. Section 6.5 authorizes the Board to waive any or all of the requirements provided in section 6 if a person: (1) pays the fees required pursuant to section 18; and (2) has three years of applicable experience or an equivalent license or certified issued by another State, as determined by the Board. Section 7 authorizes a behavioral healthcare peer recovery support specialist to engage in the practice of providing behavioral healthcare peer recovery support specialist services only under supervision: (1) provided by the entity or organization for whom the behavioral healthcare peer recovery support specialist works; and (2) conducted by a documented and qualified staff member.

Sections 9-10, 11-13, 15-17 and 19-22 of this bill make conforming changes concerning behavioral healthcare peer recovery support specialists and the practice of providing behavioral healthcare peer recovery support specialist services.

Sections 1 and 2 of this bill provide that the provisions governing psychologists, behavior analysts, assistant behavior analysts, autism behavior interventionists, social workers and clinical social workers do not apply to a person who: (1) is a behavioral healthcare peer recovery support specialist; ~~for~~ (2) volunteers for a nonprofit agency or organization and, as part of his or her duties, engages in the practice of providing behavioral healthcare peer recovery support specialist services ~~for~~; (3) engages in volunteer services for

certain medical facilities or an alcohol and drug abuse program; or (4) provides family peer support. Section 10.5 of this bill provides that the provisions governing alcohol, drug and gambling counselors and behavioral healthcare peer recovery support specialists do not apply to a person who: (1) volunteers for a nonprofit agency or organization and, as part of his or her duties, engages in the practice of providing behavioral healthcare peer recovery support specialist services ~~for~~.

~~Section 8 of this bill provides that the practice of providing behavioral healthcare peer recovery support specialist services is a learned profession that affects public health, safety and welfare and is subject to regulation.]; (2) engages in volunteer services for certain medical facilities or an alcohol and drug abuse program; or (3) provides family peer support.~~

Section 14 of this bill requires each applicant for a certificate as a behavioral healthcare peer recovery support specialist to pass a written examination.

Section 23 of this bill prohibits a person who is not licensed or certified by the Board from engaging in the practice of providing behavioral healthcare peer recovery support specialist services.

Sections 24 and 25 of this bill require a behavioral healthcare peer recovery support specialist to report the abuse, neglect, exploitation, isolation or abandonment of an older person or a vulnerable person and provide that a person is guilty of a misdemeanor for failing to do so.

Existing law authorizes peer support recovery organizations to provide peer supportive services relating to mental health, addiction or substance abuse to persons who are 18 years of age or older and who suffer from mental illness or addiction or identify themselves as at risk for mental illness or addiction. (NRS 449.01563) Under existing law such services do not require the person offering the supportive services to be licensed. (NRS 449.01566) Section 28 of this bill removes the language which provides that a person offering peer support services does not need to be licensed. Section 35.5 of this bill provides that a person engaging in the practice of providing behavioral healthcare peer recovery support specialist services for compensation on or before July 1, 2017, has 2 years from that date to meet the requirements for certification and obtain a certificate, as required by this bill.

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

Section 1. NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A person who is licensed to practice dentistry in this State;
3. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;
4. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;
5. A person who is licensed to engage in social work *or clinical social work* pursuant to chapter 641B of NRS;

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, a clinical alcohol and drug abuse counselor intern, a problem gambling counselor, ~~for~~ a problem gambling counselor intern ~~or~~ *or a behavioral healthcare peer recovery support specialist*, pursuant to chapter 641C of NRS; ~~for~~

8. Any member of the clergy ~~or~~;

9. A person who:

(a) *Engages in volunteer services for a specialty court program, as defined in NRS 176.0613, or a nonprofit agency or organization and does not receive compensation, other than a stipend, for such services; and*

(b) *As part of his or her duties in providing volunteer services, performs any of the activities described in subsections 1 and 2 of section 5 of this act* ~~or~~;

10. A person who engages in volunteer services pursuant to chapter 449 or 458 of NRS; or

11. A person who provides peer support services pursuant to a certified family peer support program approved by the Division of Child and Family Services of the Department of Health and Human Services.

➡ if such a person does not commit an act described in NRS 641.440 or represent himself or herself as a psychologist.

Sec. 2. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
 2. A nurse who is licensed to practice in this State;
 3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS;

4. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;

5. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor, or certified as a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern, a problem gambling counselor, ~~for~~ a problem gambling counselor intern ~~or~~ *or a behavioral healthcare peer recovery support specialist*, pursuant to chapter 641C of NRS;

8. Any member of the clergy;

9. A county welfare director;

10. Any person who may engage in social work or clinical social work in his or her regular governmental employment but does not hold himself or herself out to the public as a social worker; ~~for~~

11. A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by the title "student of social work" or "trainee in social work," or any other title which clearly indicates the student's training status ~~for~~; ~~for~~

12. A person who:

(a) Engages in volunteer services for a specialty court program, as defined in NRS 176.0613, or a nonprofit agency or organization and does not receive compensation, other than a stipend, for such services; and

(b) As part of his or her duties in providing volunteer services, performs any of the activities described in subsections 1 and 2 of section 5 of this act ~~for~~

13. A person who engages in volunteer services pursuant to chapter 449 or 458 of NRS; or

14. A person who provides peer support services pursuant to a certified family peer support program approved by the Division of Child and Family Services of the Department of Health and Human Services.

Sec. 3. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections ~~44~~ 3.5 to 7, inclusive, of this act.

Sec. 3.5. The practice of providing behavioral healthcare peer recovery support specialist services is hereby declared to be a profession affecting public health, safety and welfare and is subject to regulation to protect the public from the practice of providing behavioral healthcare peer recovery support specialist services by unqualified persons and from unprofessional conduct by persons who are certified to engage in the practice of providing behavioral healthcare peer recovery support specialist services.

Sec. 4. "Behavioral healthcare peer recovery support specialist" means a person ~~who is~~:

1. Who has experienced the process of recovering from a substance use or other mental disorder;

2. Who remains in active recovery;

3. Whose substance use or other mental disorder is stable or in sustained remission; and

4. Is certified as a behavioral healthcare peer recovery support specialist pursuant to the provisions of this chapter.

Sec. 5. 1. "Practice of providing behavioral healthcare peer recovery support specialist services" means the practice of providing nonprofessional, nonclinical assistance for compensation to a person with a substance use or other mental disorder that has been diagnosed by:

(a) A physician licensed pursuant to chapter 630 of NRS;

(b) An advanced practice registered nurse licensed pursuant to NRS 632.237;

(c) An osteopathic physician licensed pursuant to chapter 633 of NRS;

(d) A psychologist licensed pursuant to chapter 641 of NRS;

(e) A marriage and family therapist licensed pursuant to chapter 641A of NRS;

(f) A clinical professional counselor licensed pursuant to chapter 641A of NRS;

(g) A clinical social worker licensed pursuant to chapter 641B of NRS; or

(h) A person ~~licensed~~ who, pursuant to the provisions of this chapter ~~is~~, is:

(1) Licensed or certified to engage in the practice of counseling alcohol and drug abusers;

(2) Licensed to engage in the clinical practice of counseling alcohol and drug abusers; or

(3) Certified to engage in the practice of counseling problem gamblers.

2. The term includes, without limitation, the following nonprofessional, nonclinical activities that assist a person in achieving long-term recovery from a substance use disorder or other mental disorder:

(a) Mentoring;

(b) Coaching;

(c) Educating;

(d) Role modeling; or

(e) Any other nonprofessional, nonclinical assistance that the Board may prescribe by regulation.

3. The term does not include:

(a) The diagnosis or treatment of a substance use disorder or other mental disorder;

(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude or interests; or

(c) Counseling or psychotherapy as practiced by a:

(1) Psychologist licensed pursuant to chapter 641 of NRS;

(2) Marriage and family therapist licensed pursuant to chapter 641A of NRS;

(3) Clinical professional counselor licensed pursuant to chapter 641A of NRS;

(4) Clinical social worker licensed pursuant to chapter 641B of NRS; or

(5) A person ~~licensed~~ who, pursuant to the provisions of this chapter ~~is~~, is:

(I) Licensed or certified to engage in the practice of counseling alcohol and drug abusers;

(II) Licensed to engage in the clinical practice of counseling alcohol and drug abusers; or

(III) Certified to engage in the practice of counseling problem gamblers.

Sec. 6. The Board shall issue a certificate as a behavioral healthcare peer recovery support specialist to a person who:

- 1. Is not less than 21 years of age;*
- 2. Is a citizen of the United States or is lawfully entitled to remain and work in the United States;*
- 3. Has a high school diploma or a general equivalency diploma or an equivalent document;*

4. Submits evidence satisfactory to the Board that the person has completed a training program approved by the Board which consisted of at least 46 hours of training, including, without limitation:

(a) Ten hours of training in each of the following domains, as they relate to the practice of providing behavioral healthcare peer recovery support specialist services:

- (1) Advocacy;*
- (2) Mentoring and education; and*
- (3) Recovery and wellness support; and*

(b) Sixteen hours of training in the domain of confidentiality and ethical responsibility, as it relates to the practice of providing behavioral healthcare peer recovery support specialist services;

5. Submits evidence satisfactory to the Board that the person has completed at least 25 hours of work in each of the domains described in subsection 4, as they relate to the practice of providing behavioral healthcare peer recovery support specialist services, under the supervision of a person who provides supervision of such work for the entity or organization for which the work is completed;

6. Submits, on a form prescribed by the Board, evidence satisfactory to the Board that the person has completed at least 500 hours of paid or volunteer work in the domains described in subsection 4, as they relate to the practice of providing behavioral healthcare peer recovery support specialist services and the form is signed by a person who ~~provides~~:

(a) Pursuant to the provisions of this chapter, is:

(1) Licensed or certified to engage in the practice of counseling alcohol and drug abusers;

(2) Licensed to engage in the clinical practice of counseling alcohol and drug abusers; or

(3) Certified to engage in the practice of counseling problem gamblers;

(b) Provides supervision or management for the entity or organization for which the work is completed ~~and attesting~~; and

(c) Attests that the applicant has completed the paid or volunteer work required by this subsection;

7. Provides to the Board a statement and, if applicable, evidence satisfactory to the Board attesting that:

(a) The person has experienced the process of recovering from a substance use disorder or other mental disorder and, as a result, is qualified to engage

in the practice of providing behavioral healthcare peer recovery support specialist services;

(b) The person remains in active recovery; and

(c) The substance use disorder or other mental disorder is stable or in sustained remission;

8. Has not been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, ~~for a crime involving violence or~~ a sexual offense as that term is defined in NRS 179.245;

9. If the person has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a crime involving violence, has been released from parole, probation or custody for at least 3 years before applying for certification;

10. If the person has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a crime other than a crime described in subsection 8 ~~or~~ 9, has been released from parole, probation or custody for at least 12 months before applying for certification;

~~10.~~ 11. Passes the written examination prescribed by the Board pursuant to NRS 641C.290;

~~11.~~ 12. Pays the fees required pursuant to NRS 641C.470; and

~~12.~~ 13. Submits all information required to complete an application for a certificate.

Sec. 6.5. 1. The Board may waive any or all of the requirements provided in section 6 of this act, except for the requirements provided in subsection 7 of that section, if a person:

(a) Pays the fees required pursuant to NRS 641C.470; and

(b) Has:

(1) Three years of applicable experience in this State that the Board deems adequate for the issuance of a certificate as a behavioral healthcare peer recovery support specialist to the person; or

(2) An equivalent license or certificate issued by another State that is consistent with the provisions of section 6 of this act.

2. Notwithstanding any provision of this section to the contrary, the Board must confirm that the substance use or other mental disorder of the person is stable or in sustained remission pursuant to paragraph (c) of subsection 7 of section 6 of this act before issuing a certificate as a behavioral healthcare peer recovery support specialist to the person.

Sec. 7. 1. A certificate as a behavioral healthcare peer recovery support specialist is valid for 2 years and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

2. A behavioral healthcare peer recovery support specialist may engage in the practice of providing behavioral healthcare peer recovery support specialist services only under supervision:

(a) Provided by the entity or organization for which the behavioral healthcare peer recovery support specialist works; and

(b) *Conducted by a documented and qualified staff member who:*

(1) *Provides supervision pursuant to his or her job description; and*

(2) *Works for the entity or organization for which the behavioral healthcare peer recovery support specialist works.*

Sec. 8. ~~[NRS 641C.010 is hereby amended to read as follows:~~

~~641C.010 The practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers, [and] the practice of counseling problem gamblers and the practice of providing behavioral healthcare peer recovery support specialist services are hereby declared to be learned professions affecting public health, safety and welfare and are subject to regulation to protect the public from the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers, [and] the practice of counseling problem gamblers and the practice of providing behavioral healthcare peer recovery support specialist services by unqualified persons and from unprofessional conduct by persons who are licensed or certified to engage in the practice of counseling alcohol and drug abusers, licensed to engage in the clinical practice of counseling alcohol and drug abusers, [or] certified to engage in the practice of counseling problem gamblers [.] or certified to engage in the practice of providing behavioral healthcare peer recovery support specialist services.] (Deleted by amendment.)~~

Sec. 9. NRS 641C.020 is hereby amended to read as follows:

641C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641C.030 to 641C.110, inclusive, and sections 4 and 5 of this act have the meanings ascribed to them in those sections.

Sec. 10. NRS 641C.040 is hereby amended to read as follows:

641C.040 "Certificate" means a certificate issued to a person who is certified as an alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern, a problem gambling counselor, ~~for~~ a problem gambling counselor intern ~~or~~ a behavioral healthcare peer recovery support specialist.

Sec. 10.5. NRS 641C.130 is hereby amended to read as follows:

641C.130 The provisions of this chapter do not apply to:

1. A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS;

2. A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;

3. A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS;

4. A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS;

5. A marriage and family therapist or marriage and family therapist intern who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers; ~~for~~

6. A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers ~~for~~; ~~for~~

7. A person who:

(a) Engages in volunteer services for a specialty court program, as defined in NRS 176.0613, or a nonprofit agency or organization and does not receive compensation, other than a stipend, for such services; and

(b) As part of his or her duties in providing volunteer services, performs any of the activities described in subsections 1 and 2 of section 5 of this act ~~for~~;

8. A person who engages in volunteer services pursuant to chapter 449 or 458 of NRS; or

9. A person who provides peer support services pursuant to a certified family peer support program approved by the Division of Child and Family Services of the Department of Health and Human Services.

Sec. 11. NRS 641C.150 is hereby amended to read as follows:

641C.150 1. The Board of Examiners for Alcohol, Drug and Gambling Counselors, consisting of seven members appointed by the Governor, is hereby created.

2. The Board must consist of:

(a) Three members who are licensed as clinical alcohol and drug abuse counselors or alcohol and drug abuse counselors pursuant to the provisions of this chapter.

(b) One member who is certified as an alcohol and drug abuse counselor pursuant to the provisions of this chapter.

(c) Two members who are licensed pursuant to chapter 630, 632, 641, 641A or 641B of NRS and certified as problem gambling counselors pursuant to the provisions of this chapter.

(d) One member who is a representative of the general public. This member must not be:

(1) A licensed clinical alcohol and drug abuse counselor, ~~for~~ a licensed or certified alcohol and drug abuse counselor, ~~for~~ a certified problem gambling counselor ~~for~~ or a certified behavioral healthcare peer recovery support specialist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed clinical alcohol and drug abuse counselor, ~~for~~ a licensed or certified alcohol and drug abuse counselor, ~~for~~ a certified problem gambling counselor ~~for~~ or a certified behavioral healthcare peer recovery support specialist.

3. A person may not be appointed to the Board unless he or she is:

(a) A citizen of the United States or is lawfully entitled to remain and work in the United States; and

(b) A resident of this State.

4. No member of the Board may be held liable in a civil action for any act that he or she performs in good faith in the execution of his or her duties pursuant to the provisions of this chapter.

Sec. 12. NRS 641C.200 is hereby amended to read as follows:

641C.200 1. The Board shall adopt such regulations as are necessary to carry out the provisions of this chapter, including, without limitation, regulations that prescribe:

(a) The ethical standards for licensed and certified counselors , ~~and~~ certified interns ~~;~~ *and behavioral healthcare peer recovery support specialists*; and

(b) The requirements for continuing education for the renewal, restoration or reinstatement of a license or certificate.

2. The Board may adopt regulations that prescribe:

(a) The contents of a written and oral examination concerning the practice of counseling problem gamblers;

(b) The grounds for initiating disciplinary action against a certified problem gambling counselor or certified problem gambling counselor intern; and

(c) Disciplinary procedures for certified problem gambling counselors and certified problem gambling counselor interns, including the suspension, revocation and reinstatement of a certificate as a problem gambling counselor or problem gambling counselor intern.

3. Any regulations adopted by the Board pursuant to this section must be consistent with the provisions of chapter 622A of NRS.

Sec. 13. NRS 641C.210 is hereby amended to read as follows:

641C.210 The Executive Director of the Board or his or her designee shall prepare and maintain:

1. A separate list of the names and addresses of:

(a) The applicants for a license;

(b) The applicants for a certificate;

(c) The licensed counselors;

(d) The certified counselors; ~~and~~

(e) The certified interns ~~;~~ *and*

(f) *The behavioral healthcare peer recovery support specialists.*

2. A record of each examination conducted by the Board.

3. An inventory of:

(a) The property of the Board; and

(b) The property of this State that is in the possession of the Board.

Sec. 14. NRS 641C.290 is hereby amended to read as follows:

641C.290 1. Except as otherwise provided in NRS 641C.300, 641C.3305 and 641C.3306, each applicant for a license as a clinical alcohol and drug abuse counselor must pass a written and oral examination concerning

his or her knowledge of the clinical practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

2. Except as otherwise provided in NRS 641C.300, 641C.355, 641C.356, 641C.395 and 641C.396, each applicant for a license or certificate as an alcohol and drug abuse counselor must pass a written and oral examination concerning his or her knowledge of the practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

3. Except as otherwise provided in NRS 641C.432 and 641C.433, each applicant for a certificate as a problem gambling counselor must pass a written and oral examination concerning his or her knowledge of the practice of counseling problem gamblers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

4. *Except as otherwise provided in NRS 641C.300, each applicant for a certificate as a behavioral healthcare peer recovery support specialist must pass a written examination concerning his or her knowledge of the practice of providing behavioral healthcare peer recovery support specialist services, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.*

5. The Board shall:

(a) Examine applicants at least two times each year.

(b) Establish the time and place for the examinations.

(c) Provide such books and forms as may be necessary to conduct the examinations.

(d) Except as otherwise provided in NRS 622.090, establish, by regulation, the requirements for passing the examination.

~~{5-}~~ 6. The Board may employ other persons to conduct the examinations.

Sec. 15. NRS 641C.300 is hereby amended to read as follows:

641C.300 The Board may issue a license or certificate without examination to a person who holds a license or certificate as a clinical alcohol and drug abuse counselor, ~~for~~ an alcohol and drug abuse counselor *or a behavioral healthcare peer recovery support specialist* in another state, a territory or possession of the United States or the District of Columbia if the requirements of that jurisdiction at the time the license or certificate was issued are deemed by the Board to be substantially equivalent to the requirements set forth in the provisions of this chapter.

Sec. 16. NRS 641C.310 is hereby amended to read as follows:

641C.310 1. The Board may hold hearings and conduct investigations concerning any matter related to an application for a license or certificate. In the hearings and investigations, the Board may require the presentation of evidence.

2. The Board may refuse to issue a license or certificate to, or renew the license or certificate of, an applicant if the Board determines that the applicant:

(a) Is not of good moral character as it relates to the practice of counseling alcohol and drug abusers , ~~{or}~~ the clinical practice of counseling alcohol and drug abusers ~~{;}~~ *or the practice of providing behavioral healthcare peer recovery support specialist services;*

(b) Has submitted a false credential to the Board;

(c) Has been disciplined in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers , ~~{or}~~ the clinical practice of counseling alcohol and drug abusers ~~{;}~~ *or the practice of providing behavioral healthcare peer recovery support specialist services;*

(d) Has committed an act in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers , ~~{or}~~ the clinical practice of counseling alcohol and drug abusers *or the practice of providing behavioral healthcare peer recovery support specialist services* that would be a violation of the provisions of this chapter if the act were committed in this State; or

(e) Has failed to comply with any of the requirements for a license or certificate.

Sec. 17. NRS 641C.460 is hereby amended to read as follows:

641C.460 1. A license or certificate that is not renewed on or before the date on which it expires is delinquent. The Board shall, within 30 days after the license or certificate becomes delinquent, send a notice to the licensed or certified counselor , ~~{or}~~ certified intern *or behavioral healthcare peer recovery support specialist* by certified mail, return receipt requested, to the address of the counselor , ~~{or}~~ intern *or specialist* as indicated in the records of the Board.

2. A licensed or certified counselor , ~~{or}~~ certified intern *or behavioral healthcare peer recovery support specialist* may renew a delinquent license or certificate within 60 days after the license or certificate becomes delinquent by complying with the requirements of NRS 641C.450 and paying, in addition to the fee for the renewal of the license or certificate, the fee for the renewal of a delinquent license or certificate prescribed in NRS 641C.470.

3. A license or certificate expires 60 days after it becomes delinquent if it is not renewed within that period.

4. Except as otherwise provided in NRS 641C.530, a license or certificate that has expired may be restored if the applicant:

(a) Submits to the Board an application to restore the license or certificate;

(b) Pays the renewal fees for the period during which the license or certificate was expired and the fee for the restoration of a license or certificate prescribed in NRS 641C.470;

(c) Passes the oral and written examinations prescribed by the Board;

(d) Submits to the Board evidence of completion of the continuing education required by the Board; and

(e) Submits all information required to complete the application.

Sec. 18. NRS 641C.470 is hereby amended to read as follows:

641C.470 1. The Board shall charge and collect not more than the following fees:

For the initial application for a license or certificate, including a license or certificate by endorsement <i>but not including a certificate as a behavioral healthcare peer recovery support specialist</i>	\$150
<i>For the initial application for a certificate as a behavioral healthcare peer recovery support specialist</i>	75
For the issuance of a provisional license or certificate	125
For the issuance of an initial license or certificate, including a license or certificate by endorsement	60
For the renewal of a license or certificate as an alcohol and drug abuse counselor, a license as a clinical alcohol and drug abuse counselor or a certificate as a problem gambling counselor	300
<i>For the renewal of a certificate as a behavioral healthcare peer recovery support specialist</i>	150
For the renewal of a certificate as a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern or a problem gambling counselor intern	75
For the renewal of a delinquent license or certificate	75
For the restoration of an expired license or certificate	150
For the restoration or reinstatement of a suspended or revoked license or certificate.....	300
For the issuance of a license or certificate without examination	150
For an examination	150
For the approval of a course of continuing education.....	150

2. If an applicant submits an application for a license or certificate by endorsement pursuant to NRS 641C.3305, 641C.355, 641C.395 or 641C.432, the Board shall charge and collect not more than the fees specified in subsection 1 for the initial application for and issuance of an initial license or certificate, as applicable.

3. If an applicant submits an application for a license or certificate by endorsement pursuant to NRS 641C.3306, 641C.356, 641C.396 or 641C.433, as applicable, the Board shall collect not more than one-half of the fee specified in subsection 1 for the initial issuance of the license.

4. The fees charged and collected pursuant to this section are not refundable.

Sec. 19. NRS 641C.530 is hereby amended to read as follows:

641C.530 1. The Board may use any information included in a report of criminal history that is obtained pursuant to this section or NRS 641C.260 in determining whether:

(a) To issue, renew, restore, suspend, revoke or reinstate a license or certificate pursuant to this chapter; or

(b) Any ground for imposing any disciplinary action exists pursuant to NRS 641C.700.

2. Before renewing, restoring or reinstating the license or certificate of a licensed counselor, certified counselor, ~~for~~ certified intern ~~or~~ *behavioral healthcare peer recovery support specialist*, the Board may, by regulation, require the licensed counselor, certified counselor, ~~for~~ certified intern *or behavioral healthcare peer recovery support specialist* to submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. Except as otherwise provided in this subsection, in reviewing the information included in a report of criminal history that is obtained pursuant to this section or NRS 641C.260, the Board may consider any original charge filed against an applicant, licensed counselor, certified counselor, ~~for~~ certified intern *or behavioral healthcare peer recovery support specialist* that alleges a particular criminal act regardless of whether the person was convicted of, or entered a plea of guilty or nolo contendere to, a lesser charge. The Board shall not consider a charge filed against an applicant, licensed counselor, certified counselor, ~~for~~ certified intern *or behavioral healthcare peer recovery support specialist* that alleges a particular criminal act for which, in the absence of a plea of guilty or nolo contendere to a lesser charge:

(a) The applicant, licensed counselor, certified counselor, ~~for~~ certified intern *or behavioral healthcare peer recovery support specialist* was found not guilty; or

(b) The charges against the applicant, licensed counselor, certified counselor, ~~for~~ certified intern *or behavioral healthcare peer recovery support specialist* were dismissed.

Sec. 20. NRS 641C.700 is hereby amended to read as follows:

641C.700 The grounds for initiating disciplinary action pursuant to the provisions of this chapter include:

1. Conviction of:

(a) A felony relating to the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers, ~~for~~ the practice of counseling problem gamblers ~~or~~ *the practice of providing behavioral healthcare peer recovery support specialist services*;

(b) An offense involving moral turpitude; or

(c) A violation of a federal or state law regulating the possession, distribution or use of a controlled substance or dangerous drug as defined in chapter 453 of NRS;

2. Fraud or deception in:

(a) Applying for a license or certificate;

(b) Taking an examination for a license or certificate;

(c) Documenting the continuing education required to renew or reinstate a license or certificate;

- (d) Submitting a claim for payment to an insurer; or
- (e) The practice of counseling alcohol and drug abusers , ~~for~~ the clinical practice of counseling alcohol and drug abusers ~~for~~ *or the practice of providing behavioral healthcare peer recovery support specialist services;*
- 3. Allowing the unauthorized use of a license or certificate issued pursuant to this chapter;
- 4. Professional incompetence;
- 5. The habitual use of alcohol or any other drug that impairs the ability of a licensed or certified counselor , ~~for~~ certified intern *or behavioral healthcare peer recovery support specialist* to engage in the practice of counseling alcohol and drug abusers , ~~for~~ the clinical practice of counseling alcohol and drug abusers ~~for~~ *or the practice of providing behavioral healthcare peer recovery support specialist services, as applicable;*
- 6. Engaging in the practice of counseling alcohol and drug abusers , ~~for~~ the clinical practice of counseling alcohol and drug abusers *or the practice of providing behavioral healthcare peer recovery support specialist services* with an expired, suspended or revoked license or certificate;
- 7. Engaging in behavior that is contrary to the ethical standards as set forth in the regulations of the Board; and
- 8. The operation of a medical facility, as defined in NRS 449.0151, at any time during which:
 - (a) The license of the facility is suspended or revoked; or
 - (b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 21. NRS 641C.720 is hereby amended to read as follows:

641C.720 1. The Board or any of its members who become aware of any ground for initiating disciplinary action against a person engaging in the practice of counseling alcohol and drug abusers , ~~for~~ the clinical practice of counseling alcohol and drug abusers *or the practice of providing behavioral healthcare peer recovery support specialist services* in this State shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board. The complaint must specifically charge one or more of the grounds for initiating disciplinary action.

2. If, after notice and a hearing as required by law, the Board determines that a licensed or certified counselor , ~~for~~ certified intern *or behavioral healthcare peer recovery support specialist* has violated a provision of this chapter or any regulation adopted pursuant to this chapter, it may:

- (a) Administer a public reprimand;
- (b) Suspend the license or certificate and impose conditions for the removal of the suspension;
- (c) Revoke the license or certificate and prescribe the requirements for the reinstatement of the license or certificate;

(d) If he or she is a licensed or certified counselor, require him or her to be supervised by another person while engaging in the practice of counseling alcohol and drug abusers or the clinical practice of counseling alcohol and drug abusers;

(e) Require him or her to participate in treatment or counseling and pay the expenses of that treatment or counseling;

(f) Require him or her to pay restitution to any person adversely affected by his or her acts or omissions;

(g) Impose a fine of not more than \$5,000; or

(h) Take any combination of the actions authorized by paragraphs (a) to (g), inclusive.

3. If a license or certificate is revoked or suspended pursuant to subsection 2, the licensed or certified counselor, ~~or~~ certified intern *or behavioral healthcare peer recovery support specialist* may apply to the Board for reinstatement of the suspended license or certificate or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of the revoked license or certificate. The Board may accept or reject the application and may require the successful completion of an examination as a condition of reinstatement of the license or certificate.

4. The Board shall not administer a private reprimand.

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

6. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 22. NRS 641C.900 is hereby amended to read as follows:

641C.900 1. A person shall not engage in the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers, ~~or~~ the practice of counseling problem gamblers *or the practice of providing behavioral healthcare peer recovery support specialist services* unless the person is a licensed counselor, certified counselor ~~or~~ or certified intern ~~or~~ or is certified as a behavioral healthcare peer recovery support specialist.

2. The provisions of subsection 1 do not apply to a person who is exempt from this chapter pursuant to NRS 641C.130.

Sec. 23. NRS 641C.910 is hereby amended to read as follows:

641C.910 1. A person shall not:

(a) Hold himself or herself out to a member of the general public as a clinical alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor, an alcohol and drug abuse counselor intern, a problem gambling counselor, ~~or~~ a problem gambling counselor intern ~~or~~ or a behavioral healthcare peer recovery support specialist;

(b) Use the title "clinical alcohol and drug abuse counselor," "clinical alcohol and drug abuse counselor intern," "alcohol and drug abuse counselor,"

"alcohol and drug abuse counselor intern," "drug abuse counselor," "substance abuse counselor," "problem gambling counselor," "problem gambling counselor intern," "gambling counselor ~~[-]~~," "*behavioral healthcare peer recovery support specialist*" or any similar title in connection with his or her work;

- (c) Imply in any way that he or she is licensed or certified by the Board;
- (d) Engage in the practice of counseling alcohol and drug abusers;
- (e) Engage in the clinical practice of counseling alcohol and drug abusers;
- ~~for~~
- (f) Engage in the practice of counseling problem gamblers ~~[-]~~ ; or
- (g) *Engage in the practice of providing behavioral healthcare peer recovery support specialist services,*

↪ unless the person is licensed or certified by the Board pursuant to the provisions of this chapter.

2. If the Board believes that any person has violated or is about to violate any provision of this chapter or a regulation adopted pursuant thereto, it may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation. An injunction:

- (a) May be issued without proof of actual damage sustained by any person.
- (b) Does not prevent the criminal prosecution and punishment of a person who violates a provision of this chapter or a regulation adopted pursuant thereto.

Sec. 24. NRS 200.5093 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, *behavioral healthcare peer recovery support specialist*, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited, isolated or abandoned.

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

(c) A coroner.

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

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

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

(g) Any employee of the Department of Health and Human Services.

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

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

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

(k) Every social worker.

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

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

(n) Every person who operates or is employed by a community health worker pool, as defined in NRS 449.0028, or with whom a community health

worker pool contracts to provide the services of a community health worker, as defined in NRS 449.0027.

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

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect, isolation or abandonment, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

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

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

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

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

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

Sec. 25. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited, isolated or abandoned shall:

- (a) Report the abuse, neglect, exploitation, isolation or abandonment of the vulnerable person to a law enforcement agency; and
- (b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the

vulnerable person has been abused, neglected, exploited, isolated or abandoned.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation, isolation or abandonment of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

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

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, *behavioral healthcare peer recovery support specialist*, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited, isolated or abandoned.

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

(c) A coroner.

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

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

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

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

(i) Every social worker.

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

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

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect, isolation or abandonment, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical

examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

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

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. NRS 449.01566 is hereby amended to read as follows:

449.01566 "Peer support services" means supportive services relating to mental health, addiction or substance abuse which:

1. Do not require the person offering the supportive services to be *certified* or licensed ~~[-]~~ *unless the person:*

(a) *Is engaging in the practice of providing behavioral healthcare peer recovery support specialist services, as defined in section 5 of this act; and*

(b) *Is not exempt from the provisions of chapter 641C of NRS pursuant to NRS 641C.130.*

2. Are offered to a person in need of such services.

3. May include, without limitation:

(a) Helping to stabilize such a person;

(b) Helping such a person with recovery;

(c) Helping such a person to access community-based behavioral health care;

(d) Assisting such a person during a crisis situation or an intervention;

(e) Providing assistance with preventive care;

(f) Providing strategies and education relating to the whole health needs of such a person; and

(g) Providing encouragement, peer mentoring and training in self-advocacy and self-direction to such a person.

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 35.5. 1. Notwithstanding any provision of this act or chapter 641C of NRS to the contrary, any person who engages in the practice of providing behavioral healthcare peer recovery support specialist services for an entity or organization ~~(on a paid basis)~~ on or before July 1, 2017, must meet the requirements for certification and obtain a certificate as required by section 6

of this act and NRS 641C.900, as amended by section 22 of this act, not later than July 1, 2019.

2. As used in this section, "practice of providing behavioral healthcare peer recovery support specialist services" has the meaning ascribed to it in section 5 of this act.

Sec. 36. This act becomes effective on July 1, 2017.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Amendment No. 857 to Assembly Bill No. 194 provides that the provisions governing psychologists, behavior analysts, assistant behavior analysts, autism behavior interventionists, social workers and clinical social workers do not include: a person who engages in volunteer services for a court program, a person who provides volunteer services for certain medical facilities or an alcohol and drug abuse program, and a person who provides Family Peer Support as adopted by the Division of Child and Family Service, Department of Health and Human Services. It further defines a "behavioral healthcare peer recovery support specialist." It also clarifies that a person is engaged in the "practice of providing behavioral healthcare peer recovery support specialist services," only if the person receives compensation for providing peer recovery support services; further establishes the requirements for obtaining a certificate as a behavioral healthcare peer recovery support specialist; provides that the practice of providing behavioral healthcare peer recovery support specialist services is a lived-experience profession; and prohibits a person who is not a certified behavioral healthcare peer recovery support specialist or qualifies for exemption pursuant to NRS 641.029 or chapter 641B or 641C of NRS from practicing as a behavioral healthcare peer recovery support specialist.

Amendment adopted.

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

Assembly Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 851.

SUMMARY—Revises provisions relating to the statewide performance evaluation system. (BDR 34-1016)

AN ACT relating to education; revising provisions relating to pupil ~~achievement~~ data as a component of the statewide performance evaluation system for employees; requiring certain educational personnel to develop learning goals for pupils to measure pupil growth; providing for a review of the statewide performance evaluation system and the manner in which a school carries out certain evaluations; increasing the percentage of an evaluation of certain educational personnel that is based on pupil growth; revising the manner in which such evaluations are conducted; revising provisions relating to the number of evaluations that certain ~~employees~~ educational personnel are required to receive; revising provisions relating to the Teachers and Leaders Council; and providing other matters properly relating thereto.
Legislative Counsel's Digest:

Existing law requires the State Board of Education to adopt regulations establishing a statewide performance evaluation system for evaluating the performance of certain employees. (NRS 391.465) Section 1.1 of this bill requires each teacher, principal, vice principal and other administrator who

provides direct instructional services to pupils at a school to develop learning goals for such pupils. Section 1.1 requires the Department of Education to establish a list of assessments that may be used by a school or school district to measure the achievement of these learning goals. Section 1.1 also requires: (1) the board of trustees of each school district to ensure that the learning goals measure pupil growth in accordance with the criteria established by regulation of the State Board; and (2) that each teacher and administrator who establishes learning goals be evaluated in accordance with the criteria established by the State Board to determine the extent to which the learning goals of the pupils were achieved.

Existing law requires ~~(this)~~ the statewide performance evaluation system to: (1) require that an employee's overall performance be determined to be highly effective, effective, minimally effective or ineffective; and (2) include a process for peer evaluation of teachers. (NRS 391.465) Section 2 of this bill: (1) removes the term "minimally effective" and replaces it with the term "developing"; and (2) changes the term "peer evaluation" to "peer observation." Sections 1, 1.5 and 3.5-5.7 of this bill make conforming changes. Section 2 also provides that an administrator at the district level who provides direct supervision of the principal of a school and who also serves as the superintendent of schools of a school district must not be evaluated using the statewide performance evaluation system.

Existing law generally requires the statewide performance evaluation system to include a requirement that pupil achievement data account for at least 40 percent of an evaluation and that such data be derived both from statewide examinations and assessments and certain assessments approved by the board of trustees of a school district. (NRS 391.465) Section 2 instead requires pupil ~~achievement data~~ growth, as determined pursuant to section 1.1, to account for ~~(20 percent of an)~~ this portion of the evaluation. Section ~~2 also requires this data to be generated from the relevant school or school district.~~ 5.9 of this bill provides that, for the 2017-2018 school year, pupil growth must account for 20 percent of the evaluation of a teacher or administrator.

Section 1.2 of this bill requires the: (1) State Board to annually review the statewide performance evaluation system to ensure accuracy and reliability; and (2) board of trustees of each school district to annually review the manner in which a school in the school district carries out the evaluation of teachers and administrators pursuant to the statewide performance evaluation system. Section 1.2 also authorizes the Department to review the manner in which the statewide performance evaluation system is carried out by each school district.

Existing law establishes the Teachers and Leaders Council of Nevada and prescribes the membership of the Council. (NRS 391.455) Section 1.3 of this bill adds an additional member to the Council, who must be a school counselor, psychologist, speech-language pathologist, audiologist or social worker.

Existing law requires each postprobationary teacher or administrator who receives an evaluation designating his or her overall performance as effective

or highly effective to receive one evaluation in the next school year. (NRS 391.690, 391.710) Sections 4 and 5 of this bill instead require a postprobationary teacher or administrator who receives an evaluation designating his or her overall performance as highly effective for 2 consecutive school years to : (1) participate in one observation cycle in the school year immediately following the school year in which the postprobationary teacher or administrator receives a second consecutive evaluation designating his or her performance as highly effective and; (2) receive one evaluation in the ~~(next 2)~~ school ~~(years)~~ year immediately following the school year in which the postprobationary teacher or administrator participated in the observation cycle.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 and 1.2 of this act.

Sec. 1.1. 1. Each teacher at a school in a school district shall, in consultation with the principal of the school at which the teacher is employed or other administrator who is assigned by the principal, develop learning goals for the pupils of the teacher for a specified period.

2. Each principal, vice principal and other administrator who provides direct instructional services to pupils at a school in a school district shall, in consultation with his or her direct supervisor, develop learning goals for the pupils at the school where the principal, vice principal or other administrator, as applicable, is employed for a specified period.

3. The Department shall establish a list of assessments that may be used by a school or school district to measure the achievement of learning goals established pursuant to this section.

4. The board of trustees of each school district shall ensure that the learning goals for pupils established pursuant to this section measure pupil growth in accordance with the criteria established by regulation of the State Board.

5. Each teacher and administrator who establishes learning goals for pupils pursuant to this section must be evaluated at the end of the specified period to determine the extent to which the learning goals of the pupils were achieved. Such an evaluation must be conducted in accordance with the criteria established by regulation of the State Board for determining the level of pupil growth for the purposes of the statewide performance evaluation system. The State Board may establish by regulation the manner in which to include certain categories of pupils in the evaluation conducted pursuant to this subsection.

Sec. 1.2. 1. The State Board shall annually review the statewide performance evaluation system to ensure accuracy and reliability. Such a review must include, without limitation, an analysis of the:

(a) Number and percentage of teachers and administrators who receive each designation identified in paragraph (a) of subsection 2 of NRS 391.465 in each school, school district, and the State as a whole;

(b) Data used to evaluate pupil growth in each school, school district and the State as a whole, including, without limitation, any observations; and

(c) Effect of the evaluations conducted pursuant to the statewide system of accountability for public schools on the academic performance of pupils enrolled in the school district in each school and school district, and the State as a whole.

2. The board of trustees of each school district shall annually review the manner in which schools in the school district carry out the evaluation of teachers and administrators pursuant to the statewide performance evaluation system.

3. The Department may review the manner in which the statewide performance evaluation system is carried out by each school district, including, without limitation, the manner in which the learning goals for pupils are established and evaluated pursuant to section 1.1 of this act.

~~{Section 1.}~~ Sec. 1.25. NRS 391.102 is hereby amended to read as follows:

391.102 1. Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, before the board of trustees of a school district may transfer a teacher or administrator who has received an evaluation designating his or her overall performance as ~~{minimally effective}~~ *developing* or ineffective to another school as a result of decreased enrollment, administrative transfer or a reduction in workforce at a public school, the board of trustees of the school district must obtain the consent of the principal of the school to which the teacher or administrator is proposed to be transferred. If such consent is not obtained, the superintendent of schools of the school district:

(a) May assign the teacher or administrator to a school within the district other than the school from which the teacher or administrator was transferred; and

(b) May assign the teacher or administrator to the school at which the principal did not consent to the transfer of the teacher or administrator.

2. The superintendent of schools of a school district shall develop a plan to address the assignment of teachers or administrators who have received evaluations designating their overall performance as ~~{minimally effective}~~ *developing* or ineffective when the consent of a principal to a transfer pursuant to subsection 1 is not obtained. Such a plan must include, without limitation, a plan for any such teacher or administrator to receive assistance to help the teacher or administrator, as applicable, meet the standards for effective teaching, which may include, without limitation, peer assistance and review, participation in programs of professional development and other appropriate training.

Sec. 1.28. NRS 391.450 is hereby amended to read as follows:

391.450 As used in NRS 391.450 to 391.470, inclusive, *and sections 1.1 and 1.2 of this act*, "Council" means the Teachers and Leaders Council of Nevada created by NRS 391.455.

Sec. 1.3. NRS 391.455 is hereby amended to read as follows:

391.455 1. There is hereby created the Teachers and Leaders Council of Nevada consisting of the following ~~{15}~~ 16 members:

(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the Council.

(b) The Chancellor of the Nevada System of Higher Education, or his or her designee, who serves as an ex officio member of the Council.

(c) Four teachers in public schools appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

(d) *One school counselor, psychologist, speech-language pathologist, audiologist or social worker who is licensed pursuant to chapter 391 of NRS appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The persons nominated pursuant to this paragraph must represent the geographical diversity of school districts in this State.*

(e) Two administrators in public schools appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators and one superintendent of schools of a school district appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

~~{(e)}~~ (f) Two persons who are members of boards of trustees of school districts and who are appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.

~~{(f)}~~ (g) One representative of the regional training programs for the professional development of teachers and administrators created by NRS 391A.120 appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents.

~~{(g)}~~ (h) One parent or legal guardian of a pupil enrolled in public school appointed by the Governor from a list of nominees submitted by the Nevada Parent Teacher Association.

~~{(h)}~~ (i) Two persons with expertise in the development of public policy relating to education appointed by the Superintendent of Public Instruction. The members appointed pursuant to this paragraph must not otherwise be eligible for appointment pursuant to paragraphs (a) to ~~{(g)}~~ (h), inclusive.

2. After the initial terms, each appointed member of the Council serves a term of 3 years commencing on July 1 and may be reappointed to one additional 3-year term following his or her initial term. If any appointed member of the Council ceases to be qualified for the position to which he or she was appointed, the position shall be deemed vacant and the appointing

authority shall appoint a replacement for the remainder of the unexpired term. A vacancy must be filled in the same manner as the original appointment.

3. The Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.

4. The Council shall meet at least semiannually and may meet at other times upon the call of the Chair or a majority of the members of the Council. Nine members of the Council constitute a quorum, and a quorum may exercise all the power and authority conferred on the Council.

5. Members of the Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. A member of the Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.

7. The Department shall provide administrative support to the Council.

8. The Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to NRS 391.460.

Sec. 1.5. NRS 391.460 is hereby amended to read as follows:

391.460 1. The Council shall:

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers, administrators who provide primarily administrative services at the school level and administrators at the district level who provide direct supervision of the principal of a school, and who do not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods, which includes evaluations based upon pupil ~~achievement data~~ growth as required by NRS 391.465;

(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers and administrators to which paragraph (a) applies and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

(d) Develop and recommend to the State Board a process for peer ~~evaluations~~ *observations* of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching.

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by NRS 391.465.

Sec. 2. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance. Except as otherwise provided in subsection 4, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

- (1) Highly effective;
- (2) Effective;
- (3) ~~Minimally effective;~~ *Developing*; or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

(c) Except as otherwise provided in subsections 2 and 3 of NRS 391.695 and subsections 2 and 3 of NRS 391.715, require that pupil ~~achievement data~~ *growth, as determined pursuant to section 1.1 of this act*, account for ~~at least~~ 40 ~~40~~ percent of the evaluation.

(d) ~~Except as otherwise provided in subsection 3, prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c) which must require that:~~

~~—(1) Pupil achievement data derived from statewide examinations and assessments must account for at least 20 percent of the evaluation of a teacher or administrator, as applicable; and~~

~~—(2) Pupil achievement data derived from assessments approved by the board of trustees of a school district that employs the teacher or administrator, as applicable, must account for at least 20 percent of the evaluation.~~

~~—(e)}~~ Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.

~~{(f)}~~ (e) Include a process for peer ~~[evaluations]~~ observations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.

3. ~~{The State Board shall, by regulation, designate the assessments that may be used by a school district to determine~~ *The pupil achievement data required to be included as a part of the evaluation system pursuant to subparagraph (2) of paragraph (d) (e) of subsection 2.* The board of trustees of a school district may select one or more of the assessments designated by the State Board to determine pupil achievement, or the board of trustees may apply to the Superintendent of Public Instruction for approval to use a different assessment to determine pupil achievement.

~~—(a) Must be:~~

~~—(1) Generated from a school or school district in which the teacher or administrator was employed during the period covered by the evaluation; and~~

~~—(2) Used by the school or school district in which the teacher or administrator was employed to measure the progress of a pupil toward meeting the student learning objectives prescribed by the school district.~~

~~—(b) May not be derived from statewide examinations and assessments.~~

~~—4.}~~ A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation

system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.

~~Sec. 4.~~ *4. An administrator at the district level who provides direct supervision of the principal of a school and who also serves as the superintendent of schools of a school district must not be evaluated using the statewide performance evaluation system.*

Sec. 3. NRS 391.470 is hereby amended to read as follows:

391.470 On or before August 1 of each year, the board of trustees of each school district shall submit a report to the State Board and the Teachers and Leaders Council of Nevada created by NRS 391.455 concerning the implementation and effectiveness of the process for peer evaluations of teachers set forth in the regulations adopted by the State Board pursuant to paragraph ~~((4))~~ (e) of subsection 2 of NRS 391.465, including, without limitation, any recommendations for revisions to the process of peer ~~evaluations.~~ observations.

Sec. 3.5. NRS 391.685 is hereby amended to read as follows:

391.685 1. A probationary teacher must receive one evaluation during each school year of his or her probationary employment. The evaluation must be based in part upon at least three scheduled observations of the teacher during the first school year of his or her probationary period as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

2. If a probationary teacher receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled observations of the teacher which must occur within the times specified in paragraphs (b) and (c) of subsection 1.

(b) During the first and second school years of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one scheduled observation of the teacher which must occur within 120 days after the first day of instruction of the school year.

3. If a probationary teacher receives an evaluation designating his or her overall performance as ~~(minimally effective)~~ developing or ineffective during the first or second school year of the probationary period, the probationary teacher must receive one evaluation during the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 1.

Sec. 4. NRS 391.690 is hereby amended to read as follows:

391.690 1. If a postprobationary teacher receives an evaluation

designating his or her overall performance as ~~[minimally effective]~~ *developing* or ineffective, the postprobationary teacher must receive one evaluation in the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 1 of NRS 391.685. If a postprobationary teacher receives evidence from the first two observations during the school year indicating that, unless his or her performance improves, his or her overall performance may be rated as ~~[minimally effective]~~ *developing* or ineffective on the evaluation, the postprobationary teacher may request that the third observation be conducted by another administrator. If a postprobationary teacher requests that his or her third observation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

2. If a postprobationary teacher receives an evaluation designating his or her overall performance as effective, ~~for~~ *the postprobationary teacher must receive one evaluation in the immediately succeeding school year. The evaluation must be based in part upon at least one scheduled observation, which must occur within 120 days after the first day of instruction of the school year.*

3. If a postprobationary teacher receives an evaluation designating his or her overall performance as highly effective ~~for~~ *for 2 consecutive school years, the postprobationary teacher must receive* ~~;~~ *;*

(a) Participate in one observation cycle in the school year immediately following the school year in which the postprobationary teacher receives a second consecutive evaluation designating his or her performance as highly effective; and

(b) Receive one evaluation in the ~~immediately succeeding next 2~~ school year ~~for years~~ immediately following the school year in which the postprobationary teacher participated in the observation cycle pursuant to paragraph (a). The evaluation must be based in part upon at least one scheduled observation, which must occur within 120 days after the first day of instruction of ~~the~~ *that* school year ~~in which the evaluation occurs.~~

Sec. 4.5. NRS 391.705 is hereby amended to read as follows:

391.705 1. A probationary administrator must receive one evaluation during each school year of his or her probationary employment. The evaluation must be based in part upon at least three scheduled observations of the probationary administrator during the first school year of his or her probationary period which must occur as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

2. If a probationary administrator receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled observations of the administrator which must occur within the times specified in paragraphs (b) and (c) of subsection 1.

(b) During the first and second school year of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one scheduled observation of the administrator which must occur within 120 days after the first day of instruction of the school year.

3. If a probationary administrator receives an evaluation designating his or her overall performance as ~~minimally effective~~ *developing* or ineffective during the first or second school year of the probationary period, the probationary administrator must receive one evaluation during the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 1.

4. Each probationary administrator is subject to the provisions of NRS 391.725 and 391.820.

Sec. 5. NRS 391.710 is hereby amended to read as follows:

391.710 1. If a postprobationary administrator receives an evaluation designating his or her overall performance as ~~minimally effective~~ *developing* or ineffective, the postprobationary administrator must receive one evaluation in the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 1 of NRS 391.705. If a postprobationary administrator receives evidence from the first two observations indicating that, unless his or her performance improves, his or her overall performance may be rated as ~~minimally effective~~ *developing* or ineffective on the evaluation, the postprobationary administrator may request that the third observation be conducted by another administrator. If a postprobationary administrator requests that his or her third observation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary administrator from a list of three candidates submitted by the superintendent.

2. If a postprobationary administrator receives an evaluation designating his or her overall performance as effective ~~for~~ , *the postprobationary administrator must receive one evaluation in the immediately succeeding school year. The evaluation must be based in part upon at least one scheduled*

observation, which must occur within 120 days after the first day of instruction of the school year.

3. If a postprobationary administrator receives an evaluation designating his or her overall performance as highly effective ~~[]~~ for 2 consecutive school years, the postprobationary administrator must ~~receive~~ :

(a) Participate in one observation cycle in the school year immediately following the school year in which the postprobationary administrator receives a second consecutive evaluation designating his or her performance as highly effective; and

(b) Receive one evaluation in the ~~immediately succeeding next 2~~ school year ~~[] years~~ immediately following the school year in which the postprobationary administrator participated in the observation cycle pursuant to paragraph (a). The evaluation must be based in part upon at least one scheduled observation, which must occur within 120 days after the first day of instruction of ~~the~~ that school year ~~[] in which the evaluation occurs~~.

Sec. 5.3. NRS 391.725 is hereby amended to read as follows:

391.725 1. If a written evaluation of a probationary teacher, or a probationary administrator who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, designates the overall performance of the teacher or administrator as ~~["minimally effective"]~~ "developing" or "ineffective":

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive a ~~['minimally effective']~~ 'developing' or 'ineffective' evaluation on the first or second evaluation, or both evaluations for this school year, you may request that the third evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in improving your performance based upon the recommendations reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in improving your performance."

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator to which subsection 1 applies requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator to which subsection 1 applies requests assistance in improving performance reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in improving his or her performance.

Sec. 5.5. NRS 391.730 is hereby amended to read as follows:

391.730 Except as otherwise provided in NRS 391.825, a postprobationary employee who receives an evaluation designating his or her overall performance as:

1. ~~Minimally effective;~~ *Developing*;
2. Ineffective; or
3. ~~Minimally effective~~ *Developing* during 1 year of the 2-year consecutive period and ineffective during the other year of the period, ➤ for 2 consecutive school years shall be deemed to be a probationary employee for the purposes of NRS 391.650 to 391.830, inclusive, and must serve an additional probationary period in accordance with the provisions of NRS 391.820.

Sec. 5.7. NRS 288.151 is hereby amended to read as follows:

288.151 Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary:

1. Except as otherwise provided in subsections 2 to 6, inclusive, if the board of trustees of a school district determines that a reduction in the existing workforce of the licensed educational personnel in the school district is necessary, the decision to lay off a teacher or an administrator must be based solely on the overall performance of the teacher or administrator under the statewide performance evaluation system adopted by the State Board pursuant to NRS 391.465. When determining the manner in which to reduce the existing workforce, the board of trustees of a school district must lay off a teacher or administrator whose overall performance has been determined to be:

(a) Ineffective, before laying off a teacher or administrator whose overall performance has been determined to be ~~minimally effective,~~ *developing*, effective or highly effective;

(b) ~~Minimally effective,~~ *Developing*, before laying off a teacher or administrator whose overall performance has been determined to be effective or highly effective; and

(c) Effective, before laying off a teacher or administrator whose overall performance has been determined to be highly effective.

2. Except as otherwise provided in subsection 6, if the board of trustees of a school district determines that a further reduction in the existing workforce of the licensed educational personnel in a school district beyond that made pursuant to subsection 1 is necessary, the board of trustees must lay off a teacher or administrator whose employment record includes:

(a) A criminal record that resulted in the suspension of the teacher or administrator; or

(b) Disciplinary action that resulted in the suspension of the teacher or administrator and that was uncontested or has been finally adjudicated;

↳ before laying off a teacher or administrator whose employment record does not include such a record or disciplinary action.

3. The board of trustees shall lay off teachers or administrators whose employment records include disciplinary actions that resulted in the suspension of the teacher or administrator pursuant to subsection 2 in the order of severity of the disciplinary action, with those employees whose employment record includes more severe disciplinary action being laid off first.

4. Except as otherwise provided in subsection 6, if the board of trustees of a school district determines that a further reduction in the existing workforce of licensed educational personnel beyond that made pursuant to subsection 2 is necessary, the decision to lay off a teacher or administrator must be based on the following factors:

(a) Whether the teacher or administrator is employed in a position which is hard to fill;

(b) Whether the teacher or administrator has received a national board certification;

(c) The type of licensure held by the teacher or administrator; and

(d) The type of degree attained by the teacher or administrator and whether the degree is in a subject area that is related to his or her position.

5. If, after consideration of the factors described in subsections 1 to 4, inclusive, two or more teachers or administrators are similarly situated, the board of trustees of the school district may give preference to the more senior teacher or administrator.

6. The board of trustees of a school district is not required to take the actions described in subsections 1 to 4, inclusive, with regard to a teacher who teaches in a school in the district in a subject area for which there is a shortage of teachers, which may include, without limitation, science, technology, engineering, mathematics, special education and English as a second language.

Sec. 5.9. Notwithstanding the provisions of paragraph (c) of subsection 2 of NRS 391.465, as amended by section 2 of this act, for the 2017-2018 school year, pupil growth, as determined pursuant to section 1.1 of this act, must account for 20 percent of the evaluation of an employee pursuant to that section.

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

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Amendment No. 851 to Assembly Bill No. 320 requires the use of student growth on learning goals in personnel evaluations at 20 percent in Fiscal Year 2018 and 40 percent thereafter; requires the State and local school boards to annually review evaluation outcomes; allows the Department of Education to review implementation of the evaluation system; clarifies when a post-probationary employee may be evaluated less than annually, and requires the adoption of certain regulations related to student learning goals, and other matters.

Amendment adopted.

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

Assembly Bill No. 359.

Bill read second time.

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

Amendment No. 858.

SUMMARY—Exempts certain entities that enter into contracts or agreements with the State of Nevada or a political corporation or subdivision of the State from certain provisions relating to contractors. (BDR 54-643)

AN ACT relating to contractors; exempting certain entities that enter into contracts or agreements with the State or a political corporation or subdivision of this State from certain provisions relating to contractors; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that chapter 624 of NRS, which provides for the licensing and regulation of contractors, does not apply to work performed by an authorized representative of the State of Nevada or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State. (NRS 624.031) This bill expands this exemption to include a nonprofit entity which ~~it~~ takes the following actions without performing any act that requires a contractor's license: (1) enters into a contract with the State of Nevada, or any such political corporation or subdivision of this State, to facilitate the repair or maintenance of properties; (2) facilitates work to be performed on such a property by a licensed contractor; and (3) ~~it~~ becomes a party with the owner of such a property and a licensed contractor to a contract or agreement for the work on the property.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 624.031 is hereby amended to read as follows:

624.031 The provisions of this chapter do not apply to:

1. Work performed exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State.

2. *Any entity that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), which ~~it~~ takes the following actions without performing any act that requires a license pursuant to this chapter:*

(a) Enters into a contract or other agreement with the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State, to facilitate the repair or maintenance of properties, including, without limitation, weatherization and energy efficiency services;

(b) *Facilitates work to be performed on such a property by a person licensed pursuant to this chapter; and*

(c) ~~Has~~ *Becomes a party with the owner of such a property and a person licensed pursuant to this chapter to a contract or agreement for the work on the property.*

3. An officer of a court when acting within the scope of his or her office.

~~{3-}~~ 4. Work performed exclusively by a public utility operating pursuant to the regulations of the Public Utilities Commission of Nevada on construction, maintenance and development work incidental to its business.

~~{4-}~~ 5. An owner of property who is building or improving a residential structure on the property for his or her own occupancy and not intended for sale or lease. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the Board for the exemption. The Board shall adopt regulations setting forth the requirements for granting the exemption.

~~{5-}~~ 6. Any work to repair or maintain property the value of which is less than \$1,000, including labor and materials, unless:

(a) A building permit is required to perform the work;

(b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;

(c) The work is of a type performed by a contractor licensed in a classification prescribed by the Board that significantly affects the health, safety and welfare of members of the general public;

(d) The work is performed as a part of a larger project:

(1) The value of which is \$500 or more; or

(2) For which contracts of less than \$500 have been awarded to evade the provisions of this chapter; or

(e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of that person.

~~{6-}~~ 7. The sale or installation of any finished product, material or article of merchandise which is not fabricated into and does not become a permanent fixed part of the structure.

~~{7-}~~ 8. The construction, alteration, improvement or repair of personal property.

~~{8-}~~ 9. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and conducted within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

~~{9-}~~ 10. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his or her use or occupancy and not intended for sale or lease.

~~{10-}~~ 11. Construction oversight services provided to a long-term recovery group by a qualified person within a particular geographic area that is described in a proclamation of a state of emergency or declaration of disaster by the State or Federal Government, including, without limitation, pursuant to NRS 414.070. A long-term recovery group may reimburse such reasonable expenses as the qualified person incurs in providing construction oversight services to that group. Except as otherwise provided in this subsection, nothing in this subsection authorizes a person who is not a licensed contractor to perform the acts described in paragraphs (a) and (b) of subsection 1 of NRS 624.700. As used in this subsection:

(a) "Construction oversight services" means the coordination and oversight of labor by volunteers.

(b) "Long-term recovery group" means a formal group of volunteers coordinating response and recovery efforts related to a state of emergency or disaster that is proclaimed or declared by the State or Federal Government.

(c) "Qualified person" means a person who possesses the abilities, education, experience, knowledge, skills and training that a long-term recovery group has identified as being necessary to provide construction oversight services for a project to be performed by that group.

~~{11-}~~ 12. A person licensed as a real estate broker, real estate broker-salesperson or real estate salesperson pursuant to chapter 645 of NRS who, acting within the scope of the license or a permit to engage in property management issued pursuant to NRS 645.6052, assists a client in scheduling work to repair or maintain residential property pursuant to a written brokerage agreement or a property management agreement. Such assistance includes, without limitation, assisting a client in the hiring of any number of licensed contractors to perform the work. Nothing in this subsection authorizes the performance of any work for which a license is required pursuant to this chapter by a person who is not licensed pursuant to this chapter or the payment of any additional compensation to a person licensed as a real estate broker, real estate broker-salesperson or real estate salesperson for assisting a client in scheduling the work. The provisions of this subsection apply only if a building permit is not required to perform the work and if the value of the work does not exceed \$10,000 per residential property during the fixed term of the written brokerage agreement, if the assistance is provided pursuant to such an agreement, or during a period not to exceed 6 months if the assistance is provided pursuant to a property management agreement. As used in this subsection:

(a) "Brokerage agreement" has the meaning ascribed to it in NRS 645.005.

(b) "Property management agreement" has the meaning ascribed to it in NRS 645.0192.

(c) "Real estate broker" has the meaning ascribed to it in NRS 645.030.

(d) "Real estate broker-salesperson" has the meaning ascribed to it in NRS 645.035.

(e) "Real estate salesperson" has the meaning ascribed to it in NRS 645.040.

(f) "Residential property" means:

(1) Improved real estate that consists of not more than four residential units; or

(2) A single-family residential unit, including a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

Sec. 2. NRS 645.6051 is hereby amended to read as follows:

645.6051 1. A person licensed pursuant to this chapter as a real estate broker, real estate broker-salesperson or real estate salesperson shall maintain a record of all work performed on a residential property that the person assists a client in scheduling pursuant to subsection ~~1~~ 2 of NRS 624.031.

2. The record required by subsection 1 must include, without limitation:

(a) The name of any person licensed pursuant to chapter 624 of NRS who performs such work;

(b) The date on which the work was performed;

(c) A copy of any written contract to perform the work; and

(d) A copy of any invoice prepared in connection with the work.

3. As used in this section, "residential property" has the meaning ascribed to it in NRS 624.031.

Sec. 3. This act becomes effective on July 1, 2017.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Amendment No. 858 to Assembly Bill No. 359 amends section 1 of the bill to provide that a registered 501c3 nonprofit, who is not a licensed contractor, is not authorized to perform any act that requires a license by the State Board of Contractors.

Amendment adopted.

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

Assembly Bill No. 375.

Bill read second time.

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

Amendment No. 771.

SUMMARY—Allows the imposition of certain taxes, fees, rates, charges, levies or assessments in a county to fund approved flood management projects of a flood management authority based on the recommendations of a flood control project needs committee, ~~and voter approval.~~ (BDR S-473)

AN ACT relating to taxation; authorizing the governing body of a flood management authority under specified circumstances to adopt a resolution establishing a flood control project needs committee to recommend the imposition of certain taxes, fees, rates, charges, levies or assessments to fund the approved flood management projects of the flood management authority; providing that if such a committee is established and submits its recommendations to the governing body of the flood management authority

and the board of county commissioners within the time prescribed, the governing body of the flood management authority is required to impose certain recommended fees, rates or charges and the board of county commissioners is required to submit a question to the voters at the 2018 General Election asking whether the ~~other~~ recommended taxes, fees, levies or assessments should be imposed in the county; requiring the board of county commissioners to adopt an ordinance imposing any such taxes, fees, levies or assessments that are approved by the voters; providing for the use of the proceeds of such taxes, fees, rates, charges, levies or assessments for ~~certain~~ approved flood management projects; providing that if a flood control project needs committee is established, the committee is required to obtain information and submit a report concerning certain flooding issues in the county; providing for the prospective expiration of the authority of a governing body to establish such a committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the governing body of a flood management authority to establish by resolution a flood control project needs committee to recommend the imposition of certain : (1) flood management fees, rates, charges, levies or assessments; or (2) taxes for consideration by the voters at the 2018 General Election to fund the approved flood management projects of the flood management authority.

Sections 2 and 3 of this bill provide that if such a committee is established, the committee : (1) must recommend the imposition of certain flood management fees, rates, charges, levies or assessments; and (2) may recommend the imposition of one or more ~~of the following~~ other taxes. ~~[-]~~ The taxes which may be recommended for imposition are: (1) an additional tax on the gross receipts from the rental of transient lodging in the county; (2) a supplemental governmental services tax for the privilege of operating a vehicle upon the public streets, roads and highways of the county; (3) an additional tax on the transfer of real property in the county; (4) ~~an additional sales and use tax in the county;~~ (5) an additional property tax in the county; and ~~[(6)]~~ (5) any other tax, fee, levy or assessment the county is authorized under the law of this State to impose. The recommendations of the committee must specify the rate or rates for each of the recommended taxes, fees, rates, charges, levies or assessments and may specify the period during which the recommended taxes, fees, rates, charges, levies or assessments will be imposed. ~~[[4]]~~ The committee may dissolve itself without making recommendations if the committee is unable to develop recommendations because of a lack of sufficient documentation or technical information necessary to make such recommendations. However, if the committee submits its recommendations to the governing body of the flood management authority and the board of county commissioners on or before April 2, 2018, ~~[-]~~ : (1) the governing body of the flood management authority is required to impose the recommended flood management fees, rates or charges; and (2) the board of county commissioners

is required to submit a question to the voters at the November 6, 2018, General Election asking whether any of the other taxes, fees, levies or assessments recommended by the committee should be imposed in the county. If a majority of the voters approve the question, the board of county commissioners is required to impose the approved taxes, fees, levies and assessments at the rate or rates specified in the question submitted to the voters. If a majority of the voters approve the imposition of an additional property tax, the additional rate is exempt from the partial abatement of property taxes on certain property and the requirement that taxes ad valorem not exceed \$3.64 on each \$100 of assessed valuation.

Section 4 of this bill provides that the proceeds resulting from the imposition of such taxes, fees, rates, charges, levies and assessments: (1) must be deposited in the fund for flood management projects of the flood management authority; and (2) may be pledged to the payment of the principal and interest on bonds or other obligations issued for ~~for certain~~ approved flood management projects.

Section 5 of this bill provides that if a flood control project needs committee is established, the committee must conduct meetings to receive information and evidence about flooding issues in the county and provide a report to the Governor, the Legislature, the regional planning commission, the board of county commissioners, the city council or other governing body of each city in the county and the ~~board of directors,~~ governing body of the flood management authority of the county.

Section 6 of this bill provides that the provisions of this bill authorizing the governing body of a flood management authority to establish such a flood control project needs committee expire by limitation on April 2, 2018.

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

Section 1. 1. The governing body of a flood management authority may, by resolution, establish a flood control project needs committee to recommend the imposition of one or more of the taxes, fees, rates, charges, levies or assessments described in ~~section~~ sections 2 and 3 of this act ~~for consideration by the voters at the 2018 General Election~~ to fund the approved flood management projects of the flood management authority. If such a resolution is adopted, the committee must be appointed consisting of:

(a) The chief executive officer of the flood management authority, who serves ex officio, or his or her designee.

(b) One Senator whose legislative district includes all or part of the flood management authority. If the legislative district of more than one Senator includes the flood management authority, those Senators shall jointly appoint the member to serve.

(c) One member of the Assembly whose legislative district includes all or part of the flood management authority. If the legislative district of more than one member of the Assembly includes the flood management authority, those members of the Assembly shall jointly appoint the member to serve.

(d) One member who is a representative of the Nevada Association of Realtors, or its successor, appointed by that Association.

(e) One member who is a representative of the Retail Association of Nevada, or its successor, appointed by that Association.

(f) One member appointed by the board of county commissioners.

(g) If the county includes one or more cities, the mayor of each such city shall appoint a member to serve.

(h) One member who is a representative of a labor organization, appointed by the State of Nevada AFL-CIO, or its successor.

(i) One member of the general public, appointed by the Governor of the State of Nevada.

(j) One member who represents economic development in the county, appointed by the regional development authority, as defined in NRS 231.009, for that county.

(k) One member who represents gaming, appointed by the gaming association with the largest membership in the county or, if there are no members of a gaming association in the county, the governing body of the flood management authority.

(l) One member who represents business or commercial interests, other than gaming, appointed by the local chamber of commerce with the largest membership in the county or, if there is no local chamber of commerce in the county, the governing body of the flood management authority.

(m) One member who represents homebuilders in the county, appointed by the association of homebuilders with the largest membership in the county or, if there are no members of an association of homebuilders in the county, the governing body of the flood management authority.

(n) One member who represents the largest airport in the county, if any, appointed by that airport's governing board as a nonvoting member of the committee.

(o) One member representing commercial developers in the county, appointed by the Northern Nevada Chapter of NAIOP Commercial Real Estate Development Association, or its successor.

2. The members appointed pursuant to paragraphs ~~(d), (e), (f), (g) and (i)~~ (o), inclusive, of subsection 1 must be residents of the county.

3. Any vacancy occurring in the appointed membership of a committee established pursuant to subsection 1 must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

4. If a committee is established pursuant to subsection 1, the committee shall hold its first meeting upon the call of the chief executive officer of the flood management authority as soon as practicable after the appointments are made pursuant to subsection 1. At the first meeting of the committee, the members of the committee shall elect a Chair.

5. A majority of the voting members of a committee established pursuant to subsection 1 constitutes a quorum for the transaction of business, and a

majority of those members present at any meeting is sufficient for any official action taken by the committee.

6. If a committee is established pursuant to subsection 1, the chief executive officer of the flood management authority shall provide administrative support to the committee.

7. As used in this section, "flood management authority" has the meaning ascribed to it in NRS 244A.0293.

Sec. 2. 1. ~~[[4]]~~ Except as otherwise provided in subsection 2, if a flood control project needs committee is established pursuant to subsection 1 of section 1 of this act, the committee shall, on or before April 2, 2018:

(a) Prepare recommendations for the imposition of one or more of the taxes, fees, rates, charges, levies or assessments described in this section and section 3 of this act , or any combination thereof, in the county to provide funding to the flood management authority for one or more approved flood management projects, as defined in NRS 244A.0297. The recommendations ~~[must]~~ :

(1) Must include a proposal for the imposition of a fee, rate or charge that the governing body of a flood management authority is authorized to impose for services or facilities rendered by the flood management project pursuant to NRS 244A.063 and 268.738 and any interlocal agreement entered into pursuant to chapter 277 of NRS:

(2) May include a proposal for the imposition of one or more of the taxes, fees, levies or assessments described in section 3 of this act in the county; and

(3) Must specify the proposed rate or rates for each of the recommended taxes, fees, rates, charges, levies or assessments and may specify the period during which one or more of the recommended taxes, fees, rates, charges, levies or assessments will be imposed.

(b) Submit the recommendations to the governing body of the flood management authority and the board of county commissioners.

2. If a flood control project needs committee is established pursuant to subsection 1 of section 1 of this act and the committee is unable to develop the recommendations required by subsection 1 because of a lack of sufficient documentation or technical information necessary to develop such recommendations, the committee may dissolve itself without submitting the recommendations required by subsection 1. If the committee dissolves itself pursuant to this subsection, the committee must submit the report required by paragraph (b) of subsection 1 of section 5 of this act and include in the report a summary of the meetings conducted by the committee and the reason that the committee was unable to develop the recommendations required by subsection 1.

3. Upon the receipt of recommendations pursuant to subsection 1 ~~[, the board of county commissioners shall, at]~~ :

(a) The governing body of a flood management authority shall impose the fee, rate or charge recommended pursuant to subparagraph (1) of paragraph (a) of subsection 1 at the rate or rates and for the period or periods specified in the

recommendations submitted pursuant subsection 1, if the period was specified in those recommendations. The fee, rate or charge must be administered and enforced in the same manner as similar fees, rates or charges imposed pursuant to NRS 244A.063 and 268.738 and any interlocal agreement entered into pursuant to chapter 277 of NRS.

(b) The board of county commissioners shall, at the General Election on November 6, 2018, submit a question to the voters of the county asking whether any of the ~~(recommended)~~ taxes, fees, levies or assessments recommended pursuant to subparagraph (2) of paragraph (a) of subsection 1 should be imposed in the county. The question submitted to the voters of the county must specify the proposed rate or rates for each of the recommended taxes, fees, levies or assessments and the period during which each of the recommended taxes, fees, levies or assessments will be imposed, if the period was specified in the recommendations submitted pursuant to subsection 1. If the question submitted to the voters pursuant to this subsection asks the voters of the county whether to impose the tax described in subsection ~~4~~ 4 of section 3 of this act or any other property tax, the question must state that any such tax imposed is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

~~3~~ 4. If a majority of the voters voting on the question submitted to the voters pursuant to paragraph (b) of subsection ~~2~~ 3 vote affirmatively on the question:

(a) The board of county commissioners shall impose the recommended taxes, fees, levies or assessments in accordance with the provisions of section 3 of this act and at the rate or rates specified in the question submitted to the voters pursuant to paragraph (b) of subsection ~~2~~ 3.

(b) If the question recommended the imposition of the tax described in subsection ~~4~~ 4 of section 3 of this act or any other property tax:

(1) Any such tax imposed is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

(2) The provisions of NRS 361.453 do not apply to any such tax imposed.

~~(c)~~ 5. The taxes, fees, rates, charges, levies and assessments imposed pursuant to this section must be imposed notwithstanding the provisions of any specific statute to the contrary and, except as otherwise specifically provided in sections 1 to 4, inclusive, of this act, such taxes, fees, rates, charges, levies and assessments are not subject to any limitations set forth in any statute which authorizes the board of county commissioners to impose such taxes, fees, rates, charges, levies and assessments, including, without limitation, any limitations on the maximum rate or rates which may be imposed or the duration of the period during which such taxes, fees, rates, charges, levies and assessments may be imposed.

Sec. 3. 1. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of a tax on the gross receipts from the rental of transient lodging, in addition to all other taxes imposed on the revenue from

the rental of transient lodging, the board of county commissioners shall impose a tax on the gross receipts from the rental of transient lodging at the rate specified in the question presented to the voters pursuant to section 2 of this act. The tax must be imposed throughout the county, including its incorporated cities, upon all persons in the business of providing transient lodging. The tax must be administered and enforced in the same manner as similar taxes imposed pursuant to chapter 244 of NRS on the revenue from the rental of transient lodging are administered and enforced.

2. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of a supplemental governmental services tax for the privilege of operating a vehicle upon the public streets, roads and highways of the county, the board of county commissioners shall, in addition to any supplemental governmental services tax imposed pursuant to NRS 371.043 or 371.045, impose a supplemental governmental services tax at the rate specified in the question presented to the voters pursuant to section 2 of this act on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to chapter 371 of NRS; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

↪ The tax must be administered and enforced in the same manner as the taxes imposed pursuant to NRS 371.043 and 371.045 are administered and enforced.

3. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of a tax on transfers of real property, in addition to all other taxes imposed on transfers of real property pursuant to chapter 375 of NRS, the board of county commissioners shall impose a tax at the rate specified in the question presented to the voters pursuant to section 2 of this act on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, or land sale installment contract, if the consideration or value of the interest or property conveyed exceeds \$100. The amount of the tax must be computed on the basis of the value of the real property that is the subject of the transfer or land sale installment contract as declared pursuant to NRS 375.060. The county recorder shall collect the tax in the manner provided in NRS 375.030.

4. ~~Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in the county, the board of county commissioners shall impose the tax at the rate specified in the question presented to the voters pursuant to section 2 of this act. The tax must be administered and enforced in the same manner as the taxes imposed pursuant to chapter 374 of NRS are administered and enforced.~~

~~5.1~~ Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending an increase in the rate of the tax levied in accordance with NRS 361.460, the board of county commissioners shall, in addition to any tax levied in accordance with NRS 361.460, levy a tax on the assessed valuation of taxable property within the county in the amount described in the question presented to the voters pursuant to section 2 of this act. The tax must be administered and enforced in the same manner as the tax imposed pursuant to NRS 361.460 is administered and enforced.

~~6.1~~ 5. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of any other tax, fee, levy or assessment not described in subsections 1 to ~~5.1~~ 4. inclusive, that the county is authorized under the law of this State to impose, the board of county commissioners shall levy or otherwise impose such a tax, fee, levy or assessment at the rate or rates specified in the question presented to the voters pursuant to section 2 of this act. Each tax, fee, levy or assessment must be administered and enforced as provided for under the laws of this State.

Sec. 4. The proceeds of any taxes, fees, rates, charges, levies and assessments imposed pursuant to sections 2 and 3 of this act:

1. Must be deposited in the flood management authority's fund for flood management projects to be held and, except as otherwise provided in subsection 2, expended to pay the costs of one or more of the approved flood management projects set forth in NRS 244A.0297.

2. May be pledged to the payment of principal and interest on bonds or other obligations issued for one or more of the approved flood management projects set forth in NRS 244A.0297. The proceeds of such taxes, fees, rates, charges, levies and assessments so pledged may be treated as pledged revenues for the purposes of subsection 3 of NRS 350.020, and the governing body of the flood management authority may issue bonds for those purposes in accordance with the provisions of chapter 350 of NRS.

Sec. 5. 1. If a flood control project needs committee is established pursuant to subsection 1 of section 1 of this act, the committee shall, not later than 18 months after the date of the first meeting of the committee:

(a) Conduct meetings at which the committee receives information and evidence concerning the issue of flooding in areas of the county not covered by a plan for protection against floods which is adopted by the flood management authority of the county, regardless of the source or cause of such flooding; and

(b) Submit a report to the Governor, the Director of the Legislative Counsel Bureau for transmission to the next session of the Legislature, the regional planning commission in the jurisdiction of the flood management authority, the board of county commissioners, the city council or other governing body of each incorporated city in the county and the ~~(board of directors)~~ governing body of the flood management authority. The report must contain:

(1) A summary of any existing flood management plans adopted by the county or an incorporated city located within the county, including, without limitation, any policy or capital improvement recommendations included in such plans;

(2) A description of the areas of the county which are most affected by flooding and which are not covered by the plan for protection against floods which is adopted by the flood management authority of the county;

~~[(2)]~~ (3) A description of the source of flooding in the areas of the county described pursuant to subparagraph ~~[(1)]~~

~~[(3)]~~ (2);

(4) A compilation of projects suggested in existing community planning documents that would address known areas of flooding in the county;

~~[(4)]~~ (5) Recommendations for flood protection or mitigation measures for known sources of flooding and sources of flooding identified during the course of the meetings conducted pursuant to ~~[subsection 1.]~~ paragraph (a); and

~~[(5)]~~ (6) Recommendations of issues that need further study and modeling.

2. As used in this section, "flood management authority" has the meaning ascribed to it in NRS 244A.0293.

Sec. 6. 1. This act becomes effective upon passage and approval.

2. Section 1 of this act expires by limitation on April 2, 2018.

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.

Amendment No. 771 to Assembly Bill No. 375 revises the following provisions related to the recommendations for the imposition of certain taxes, fees, levies or assessments which must be submitted by a flood control project needs committee, if a committee is formed. The recommendations are required to be submitted to the governing body of the flood-management authority in addition to the board of county commissioners, and the recommendations must provide funding only for the approved flood-management projects of the flood-management authority. The sales and use tax is removed from the list of revenues that may be recommended by a flood control project needs committee; the recommendations prepared by the committee must include a proposal, which does not require voter approval, to provide for the imposition of a fee, rate or charge that a governing body of a flood-management authority is currently authorized to impose under existing law and any interlocal agreement entered into under existing law. The intent is that the committee will recommend the fee but that the flood-management board will still maintain the authority to implement the fee. The flood control project needs committee is authorized rather than required to recommend the imposition of one or more of the other taxes, fees, levies or assessments for which voter approval is required.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 66.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 918.

SUMMARY—Revises provisions relating to work-based learning programs. (BDR 34-254)

AN ACT relating to education; removing the limitation on the amount of credit a pupil may earn for successful completion of certain work programs; authorizing the board of trustees of a school district, the governing body of a charter school or a nonprofit organization to apply for a grant of money from the Department of Education to develop and implement certain work-based learning programs; requiring the board of trustees of a school district and the governing body of a charter school that offers a work-based learning program to biennially prepare and submit a report concerning the manner in which the program has been carried out; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows certain high school pupils to receive one elective credit toward the academic credit requirements for graduation from high school by completing a public or private internship. (NRS 389.167) Section 2 of this bill replaces the term "public or private internship" with the term "work-based learning programs" and authorizes a school district or charter school to offer a work-based learning program upon application to and approval of the State Board of Education. Section 2 prescribes the requirements for work-based learning programs and the requirements for pupils to participate in a work-based learning program. Section 2 also : (1) removes the limitation that applied on the amount of credit a pupil could obtain for completing an internship so that a pupil may earn one or more credits for completing a work-based learning program ~~for~~ ; and (2) requires the board of trustees of a school district and the governing body of a charter school that offers a work-based learning program to prepare a report concerning the manner in which the work-based learning program has been carried out and submit the report to the State Board and the Legislature once each biennium. Section 1 of this bill authorizes the board of trustees of a school district, the governing body of a charter school or a nonprofit organization to apply for a grant of money from the Department of Education to develop and implement work-based learning programs in the fields, trades or occupations prescribed by the State Board of Education, in consultation with the Office of Economic Development.

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The board of trustees of a school district, the governing body of a charter school or a nonprofit organization, in cooperation with such a board of trustees or governing body, may apply for a grant of money from the Department to develop and implement work-based learning programs pursuant to NRS 389.167 in the fields, trades or occupations prescribed by the State Board pursuant to subsection 3.*

2. *The Department shall develop a process for evaluating an application submitted pursuant to subsection 1 and, within the limits of money available for such use, distribute money for the development and implementation of work-based learning programs pursuant to NRS 389.167. Grants must be used for the development and implementation of such work-based learning programs.*

3. *The State Board shall, in consultation with the Office of Economic Development created by NRS 231.043, prescribe the fields, trades or occupations for which a grant of money may be awarded for the development and implementation of work-based learning programs.*

Sec. 2. NRS 389.167 is hereby amended to read as follows:

389.167 1. A pupil enrolled ~~{in grade 11 or 12}~~ at a public school ~~{who is at least 16 years of age}~~ must be allowed to apply ~~{not more than one credit}~~ one or more credits toward the total number of credits required for graduation from high school if the pupil successfully completes a ~~{public or private internship}~~ work-based learning program which has been approved pursuant to subsection 2 . ~~{and which is of a duration of not less than 60 hours in a school year. The credit}~~ Any credits earned for successful completion of a work-based learning program must be applied toward the pupil's elective course credits and not toward a course that is required for graduation from high school.

2. ~~{If the}~~ The board of trustees of a school district or the governing body of a charter school ~~{obtains}~~ may offer a work-based learning program upon application to and with the approval of the State Board . ~~{}~~ An application to offer a work-based learning program must include, without limitation:

(a) *The fields, trades or occupations in which a work-based learning program will be offered.*

(b) *The qualifications of a pupil to participate in the work-based learning program. Such qualifications must allow a majority of pupils to be eligible to participate in the work-based learning program.*

(c) *A description of the application that will be used by pupils to apply to participate in a work-based learning program.*

(d) *A description of the manner in which participation in a work-based learning program and completion of the requirements of a work-based learning program will be verified.*

3. *Upon approval by the State Board of an application to offer a work-based learning program submitted pursuant to subsection 2, the board of trustees or the governing body ~~{may}~~ :*

(a) *Shall designate an employee of the school district or charter school, as applicable, to serve as a work-based learning coordinator to coordinate and oversee work-based learning programs. Such an employee must approve each business, agency or organization that will offer employment and supervision of a pupil as part of the work-based learning program.*

(b) *May authorize pupils enrolled in the school district or charter school , as applicable, who satisfy the qualifications prescribed ~~{pursuant to}~~*

~~subparagraph (2) of paragraph (a)] by the school district or charter school to participate in a [public or private internship] work-based learning program for the purpose of obtaining credit pursuant to subsection 1. [If a board of trustees or governing body of a charter school authorizes the participation in a public or private internship, the board of trustees or governing body shall:~~

~~—(a) Prescribe:~~

~~—(1) The fields, trades or occupations in which a pupil may complete a public or private internship, including, without limitation, agriculture, medical and health sciences, manufacturing and construction;~~

~~—(2) The qualifications of a pupil for participation in a public or private internship;~~

~~—(3) The manner in which a qualified pupil must apply for participation in a public or private internship; and~~

~~—(4) The manner for verifying that a pupil has completed the requisite number of hours to qualify for credit; and~~

~~—(b) Establish]~~

~~(c) Shall establish and maintain a [nonexclusive] list of [participating] businesses, agencies and organizations [which offer the employment and supervision of pupils for the purposes of obtaining academic credit in a public or private internship pursuant to this section.] that have been approved by the work-based learning coordinator pursuant to paragraph (a).~~

4. To receive approval from the State Board to offer a work-based learning program, the work-based learning program must include, without limitation:

(a) A requirement that a business, agency or organization that offers employment and supervision of a pupil participating in the work-based learning program establish a detailed training agreement and training plan with each pupil participating in the work-based training program that identifies the specific tasks in which the pupil will participate that will develop competency of the pupil in the workplace;

(b) The required number of hours a pupil must complete in the work-based learning program to qualify for credit for participation in the work-based learning program;

(c) A requirement that a pupil participating in the work-based learning program:

(1) Is allowed leave to the public school in which he or she is enrolled during the school day to participate in such a program; ~~and~~

(2) Receives an on-site evaluation of his or her performance; and

(3) Complete an assessment prescribed by the State Board related to his or her chosen career pathway; and

(d) A requirement that participation by a pupil in the work-based learning program will develop a broad range of skills and will allow a pupil to focus on his or her chosen career pathway.

5. *Participation by a pupil in a work-based learning program must lead to the pupil receiving a high school diploma . ~~and a national credential, certificate or certification related to the chosen career pathway of the pupil.~~*

6. *A school district or charter school may allow a pupil who successfully completes a work-based learning program to earn dual credit for participation in the work-based learning program.*

7. *On or before January 15 of each odd-numbered year, the board of trustees of a school district and the governing body of a charter school that offers a work-based learning program shall prepare a report concerning the manner in which the work-based learning program has been carried out and submit the report to the State Board and the Legislature.*

Sec. 2.5. *The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.*

Sec. 3. This act becomes effective on July 1, 2017.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment 918 to Senate Bill No. 66 requires a non-profit organization to cooperate with a board of trustees or governing body in order to apply for a grant of money from the Department to develop and implement work-based learning programs. It also requires the board of trustees of a school district and the governing body of a charter school that offers a work-based learning program to prepare a report in each odd-numbered year concerning the work-based learning program offered and submit the report to the State Board of Education and the Legislature and requires that a pupil participating in the work-based learning program to complete an assessment prescribed by the State Board of Education related to his or her chosen career pathway.

Amendment adopted.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 66 removes the limitation on the number of credits a student may earn for successful completion of certain internship programs. Furthermore, the bill authorizes a school district board of trustees, a charter school governing body or a nonprofit organization, in cooperation with a board of trustees or governing board, to apply for a grant from the Department of Education to develop and implement work-based learning programs. The State Board of Education must receive input from the Governor's Office of Economic Development before prescribing the fields, trades or occupations for which a grant may be awarded.

The bill requires a student participating in the work-based learning program to complete an assessment related to his or her chosen career path. Additionally, Senate Bill No. 66 requires a school district board of trustees or governing body of a charter school that offers a work-based learning program to prepare a report in each odd-numbered year concerning the work-based learning program to be submitted to the State Board of Education and the Legislature.

Roll call on Senate Bill No. 66:

YEAS—21.

NAYS—None.

Senate Bill No. 66 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 132.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 920.

SUMMARY—Revises provisions relating to public high schools.
(BDR 34-47)

AN ACT relating to education; providing for the establishment of an individual graduation plan for certain pupils to allow them to remain in high school for an additional period to work towards graduation; requiring the Superintendent of Public Instruction to determine certain requirements for eligibility for such a plan; revising provisions relating to academic plans for high school pupils; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Education to prescribe the criteria for a pupil to receive a standard high school diploma. (NRS 390.600) Section 1 of this bill requires the board of trustees of each school district and allows the governing body of a charter school that operates as a high school and is in good standing with its sponsor to adopt a policy to authorize the establishment of individual graduation plans for pupils enrolled in a high school within the school district or operated by the charter school, as applicable, who: (1) are not likely to graduate on time; ~~for~~ (2) have scored poorly on the college and career readiness assessment ~~1-1~~; or (3) have attended or will attend school in another country as a foreign exchange student for at least one semester. Section 1 requires the Superintendent of Public Instruction to establish certain requirements for eligibility for such a plan. Section 1 further allows a pupil with an individual graduation plan to remain enrolled in high school for up to 3 semesters after the date on which he or she was otherwise scheduled to graduate. The school district or charter school, as applicable, may withdraw an individual graduation plan if the pupil is not making adequate progress as outlined in the plan or for other good cause. Section 1 provides that a pupil for whom an individual graduation plan has been established must ~~(not)~~ be counted when calculating the graduation rates of pupils for the year in which the pupil was scheduled to graduate. ~~[. Instead, section 1 requires that the pupil be counted when calculating the graduation rates for the year in which the pupil is scheduled to graduate pursuant to the pupil's individual graduation plan.]~~ until the pupil obtains a standard high school diploma and then must be counted for the appropriate year as determined by the Department. Section 1 also requires a pupil with an individual graduation plan who receives below a prescribed score on the college and career readiness assessment to enroll in the maximum number of units of credit per semester allowed by the public school in which he or she is enrolled unless his or her individual graduation plan provides otherwise. Finally, section 1 provides that a charter school shall be deemed to be in good standing if the charter school: (1) is carrying out an improvement plan approved by the sponsor of the charter school; or (2) operates as a high school, has a graduation rate that is more than 60 percent

and is not rated in the lowest 5 percent of high schools in the State in pupil achievement and performance as determined by the Department of Education.

Existing law requires the board of trustees of each school district to adopt a policy to develop a 4-year academic plan for pupils in high school. (NRS 388.205) Section 2 of this bill requires each public school within the school district to provide each pupil with this plan at the beginning of the pupil's ninth grade year. Section 2 also requires: (1) a school counselor to establish and annually revise specific educational goals for each pupil in consultation with the pupil's parent or legal guardian; and (2) the policies adopted by the board of trustees of each school district to ensure that each pupil and the pupil's parent or legal guardian are provided with certain information regarding postsecondary and vocational education.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The board of trustees of each school district shall, and the governing body of each charter school that operates as a high school and is in good standing with its sponsor may, adopt a policy to authorize the establishment of individual graduation plans for pupils enrolled in a high school within the school district or operated by the charter school, as applicable, who:*

(a) Are deficient in credits and not likely to graduate according to schedule;
~~*for*~~

(b) Have performed poorly on the college and career readiness assessment administered pursuant to NRS 390.610 ~~for~~; or

(c) Have attended or will attend school in another country as a foreign exchange student for at least one semester.

2. *In addition to the conditions set forth in paragraphs (a), ~~and~~ (b) and (c) of subsection 1, the Superintendent of Public Instruction may establish other conditions for a pupil to be eligible for an individual graduation plan.*

3. *An individual graduation plan must establish an academic plan for a pupil to allow the pupil to graduate with a standard high school diploma not later than 3 semesters after the date on which the pupil was otherwise scheduled to graduate. The individual graduation plan must include any conditions to which a pupil must agree to comply to remain enrolled in the high school. Such conditions may include, without limitation, any subjects that must be completed, the minimum number of units of credit in which the pupil must enroll each semester, the minimum grade point average that must be maintained by the pupil and any other conditions necessary to ensure that the pupil makes adequate progress to obtain a standard high school diploma within the time allowed.*

4. *The Superintendent of Public Instruction shall make a determination each year concerning:*

(a) The number of credits by which a pupil must be deficient to be eligible for an individual graduation plan;

(b) The maximum score on the college and career readiness assessment administered pursuant to NRS 390.610 that a pupil may receive to be eligible for an individual graduation plan; and

(c) Any other conditions that must be met for participation in an individual graduation plan.

5. An individual graduation plan may be withdrawn by the school district or charter school if the pupil is not making adequate progress as outlined in the individual graduation plan or for other good cause.

6. A pupil for whom an individual graduation plan has been established must ~~not~~ be counted when calculating the graduation rates of pupils in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board pursuant to NRS 385A.400 for the year in which the pupil was scheduled to graduate ~~and~~ until the pupil obtains a standard high school diploma and then must be counted for the appropriate year as determined by the Department pursuant to subsection 8.

7. A pupil for whom an individual graduation plan has been established must not be counted when calculating the graduation rates of pupils used to determine whether the sponsor of a charter school may take certain actions concerning the charter school pursuant to NRS 388A.330.

~~7.7.~~ 8. If a pupil for whom an individual graduation plan has been established:

(a) Obtains a standard high school diploma within the time allowed by the individual graduation plan, the pupil must be counted as having received a standard high school diploma when calculating the graduation rates of pupils for the purposes of NRS 388A.330, if applicable, in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board pursuant to NRS 385A.400 for the year in which the pupil graduates.

(b) Fails to obtain a standard high school diploma within the time allowed by the individual graduation plan, the pupil must be counted as having failed to receive a standard high school diploma when calculating the graduation rates of pupils for the purpose of NRS 388A.330, if applicable, in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board pursuant to NRS 385A.400 for the year in which the pupil was scheduled to graduate pursuant to his or her individual graduation plan.

~~8.1.~~ 9. Any pupil for whom an individual graduation plan has been established who receives a score on the college and career readiness assessment that is less than the score prescribed by the Superintendent of Public Instruction pursuant to paragraph (b) of subsection 4 must, unless his or her individual graduation plan provides otherwise, enroll in the maximum

number of units of credit per semester allowed by the public school in which the pupil is enrolled.

~~9. The State Board shall prescribe by regulation the standards and criteria to be used by the sponsor of a charter school to determine whether the~~

10. For the purposes of this section, a charter school ~~is~~ shall be deemed to be in good standing ~~for the purposes of this section~~ if:

(a) The charter school is carrying out an improvement plan approved by the sponsor of the charter school; or

(b) The charter school:

(1) Operates as a high school;

(2) Has a graduation rate that is more than 60 percent; and

(3) Is not rated in the lowest 5 percent of high schools in this State in pupil achievement and school performance as determined by the Department pursuant to the statewide system of accountability for public schools.

Sec. 2. NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. *Except as otherwise provided in subsection 4, the policy must require each public school to provide each pupil with an academic plan at the beginning of the pupil's ninth grade year.* The academic plan must set forth the specific educational goals ~~{that the pupil}~~ established pursuant to subsection 6 each year and the steps that the pupil intends to take in order to achieve ~~{before graduation from high school}~~ those goals. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. The policy ~~{may}~~ must ensure that each pupil enrolled in ninth grade and the pupil's parent or legal guardian are provided with, to the extent practicable, ~~{the following}~~ information ~~{-}~~ regarding:

(a) The advanced placement courses, honors courses, international baccalaureate courses, dual credit courses, career and technical education courses, including, without limitation, career and technical skills-building programs, and any other educational programs, pathways or courses available to the pupil which will assist the pupil in the advancement of his or her education;

(b) The requirements for graduation from high school with a diploma and the types of diplomas available;

(c) The requirements for admission to the Nevada System of Higher Education, including, without limitation, the average score on the college and career readiness assessment administered pursuant to NRS 390.610 of students admitted to each community college, state college or university in the Nevada System of Higher Education, and the eligibility requirements for a Governor Guinn Millennium Scholarship; ~~and~~

(d) *The Free Application for Federal Student Aid and advice concerning how to finance enrollment in an institution that provides postsecondary and vocational education; and*

(e) The charter schools within the school district.

3. The policy required by subsection 1 must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) Be notified of opportunities to work in consultation with a school counselor to develop and review an academic plan for the pupil;

(b) Sign the academic plan; and

(c) Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

4. If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil *as soon as reasonably practicable* with appropriate modifications for the grade level of the pupil.

5. An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and receive a high school diploma if the pupil otherwise satisfies the requirements for a diploma.

6. *Except as otherwise provided in subsection 4, a school counselor shall establish specific educational goals for each pupil in consultation with the pupil and the parent or legal guardian of the pupil, to the extent practicable, at the beginning of each pupil's ninth grade year and as a part of the review conducted pursuant to paragraph (c) of subsection 3.*

Sec. 3. NRS 432B.580 is hereby amended to read as follows:

432B.580 1. Except as otherwise provided in this section and NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent, the placement must be reviewed by the court at least semiannually, and within 90 days after a request by a party to any of the prior proceedings. Unless the parent, guardian or the custodian objects to the referral, the court may enter an order directing that the placement be reviewed by a panel appointed pursuant to NRS 432B.585.

2. An agency acting as the custodian of the child shall, before any hearing for review of the placement of a child, submit a report to the court, or to the panel if it has been designated to review the matter, which includes:

(a) An evaluation of the progress of the child and the family of the child and any recommendations for further supervision, treatment or rehabilitation.

(b) Information concerning the placement of the child in relation to the child's siblings, including, without limitation:

(1) Whether the child was placed together with the siblings;

(2) Any efforts made by the agency to have the child placed together with the siblings;

(3) Any actions taken by the agency to ensure that the child has contact with the siblings; and

(4) If the child is not placed together with the siblings:

(I) The reasons why the child is not placed together with the siblings; and

(II) A plan for the child to visit the siblings, which must be approved by the court.

(c) A copy of ~~any~~ *any academic plan or individual graduation plan* developed for the child pursuant to NRS 388.155, 388.165 or 388.205 ~~or~~ *or section 1 of this act.*

(d) A copy of any explanations regarding medication that has been prescribed for the child that have been submitted by a foster home pursuant to NRS 424.0383.

3. Except as otherwise provided in this subsection, a copy of the report submitted pursuant to subsection 2 must be given to the parents, the guardian ad litem and the attorney, if any, representing the parent or the child. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the parent has not appeared in the action, the report need not be sent to that parent.

4. After a plan for visitation between a child and the siblings of the child submitted pursuant to subparagraph (4) of paragraph (b) of subsection 2 has been approved by the court, the agency which provides child welfare services must request the court to issue an order requiring the visitation set forth in the plan for visitation. If a person refuses to comply with or disobeys an order issued pursuant to this subsection, the person may be punished as for a contempt of court.

5. The court or the panel shall hold a hearing to review the placement, unless the parent, guardian or custodian files a motion with the court to dispense with the hearing. If the motion is granted, the court or panel may make its determination from any report, statement or other information submitted to it.

6. Except as otherwise provided in this subsection and subsection 5 of NRS 432B.520, notice of the hearing must be given by registered or certified mail to:

(a) All the parties to any of the prior proceedings;

(b) Any persons planning to adopt the child;

(c) A sibling of the child, if known, who has been granted a right to visitation of the child pursuant to NRS 127.171 and his or her attorney, if any; and

(d) Any other relatives of the child or providers of foster care who are currently providing care to the child.

7. The notice of the hearing required to be given pursuant to subsection 6:

(a) Must include a statement indicating that if the child is placed for adoption the right to visitation of the child is subject to the provisions of NRS 127.171;

(b) Must not include any confidential information described in NRS 127.140; and

(c) Need not be given to a parent whose rights have been terminated pursuant to chapter 128 of NRS or who has voluntarily relinquished the child for adoption pursuant to NRS 127.040.

8. The court or panel may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 6 a right to be heard at the hearing.

9. The court or panel shall review:

(a) The continuing necessity for and appropriateness of the placement;

(b) The extent of compliance with the plan submitted pursuant to subsection 2 of NRS 432B.540;

(c) Any progress which has been made in alleviating the problem which resulted in the placement of the child; and

(d) The date the child may be returned to, and safely maintained in, the home or placed for adoption or under a legal guardianship.

10. The provision of notice and a right to be heard pursuant to this section does not cause any person planning to adopt the child, any sibling of the child or any other relative, any adoptive parent of a sibling of the child or a provider of foster care to become a party to the hearing.

Sec. 4. This act becomes effective on July 1, 2018.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 920 to Senate Bill No. 132 adds high school students who have attended or will attend school in another country as a foreign exchange student for at least one semester to the list of eligible students for whom the establishment of individual graduation plans for high school students is permitted. It also clarifies that a student for whom an individual graduation plan has been established must be counted in the calculation of graduation rates for the year in which the student was scheduled to graduate until such time as the student obtains a standard high school diploma and then must be counted for the appropriate year as determined by the Department of Education.

It additionally clarifies that a charter school is deemed to be in good standing if the charter school is carrying out an improvement plan approved by the sponsor of the charter school; or the charter school operates as a high school, has a graduation rate that is more than 60 percent and is not rated in the lowest 5 percent of high schools in the State in pupil achievement and school performance as determined by the Department pursuant to the statewide system of accountability for public schools.

Amendment adopted.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 132 requires the board of trustees of each school district and allows the governing body of a charter school that operates as a high school and is in good standing to adopt a policy authorizing the establishment of individual graduation plans for high school students who are not likely to graduate on time, have scored poorly on the college and career readiness assessment, have attended or will attend school in another country as a foreign exchange student for at least one semester.

The Superintendent of Public Instruction must establish certain eligibility requirements for a plan that allows a student to remain enrolled in high school for up to three semesters after he or she was otherwise scheduled to graduate. An individual graduation plan may be withdrawn if the

student is not making adequate progress or for other good cause. In addition, this bill revises the manner in which a student with a plan is counted in graduation statistics.

Senate Bill No. 132 also revises the procedures and requirements related to four-year academic plans. These plans, which are developed for all high school students, must be provided at the beginning of each student's ninth grade year. Additionally, a school counselor must establish and annually revise specific educational goals for each student in consultation with the student's parent or legal guardian. Finally, this bill ensures that each student and the student's parent or legal guardian are provided certain information regarding postsecondary and vocational education.

Roll call on Senate Bill No. 132:

YEAS—20.

NAYS—Gustavson.

Senate Bill No. 132 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 229.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 935.

SUMMARY—Revises provisions relating to guardianships. (BDR 13-87)

AN ACT relating to guardians; establishing a form by which a person may request to nominate another person to serve as his or her guardian; revising provisions governing registered agents to authorize a person to serve as a registered agent for a nonresident guardian; revising provisions relating to the Nevada Lockbox ; ~~(to include forms requesting to nominate a guardian);~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally provides that in a proceeding to appoint a guardian for an adult, a court is required to give preference to a nominated person or relative, in that order of preference. Existing law defines a "nominated person" as a person whom an adult: (1) nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while he or she was competent; or (2) requests for the appointment as guardian of the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while he or she was competent. (NRS 159.0613) Section 2 of this bill provides that any person who wishes to request to nominate another person to be appointed as his or her guardian may do so by completing a form requesting to nominate a guardian, which must be signed by the person and two impartial adult witnesses and notarized. Section 2 sets forth a model form for such a request and requires the Secretary of State to make the form available on the Internet website of the Secretary of State.

Existing law establishes provisions relating to the Nevada Lockbox, which is a registry authorized to be established and maintained on the Secretary of State's Internet website in which a person may register a will or other document. (NRS 225.300-225.440) Section 11 of this bill revises the definition

of the term "other document" to include a form requesting to nominate a guardian that is executed in accordance with section 2. Section 12 of this bill authorizes the Secretary of State to provide access to the lockbox of a registrant if such access is requested by a court, hospital, law enforcement agency or other entity that needs to determine whether a person has designated a guardian. Section 12 also requires the Secretary of State to ensure that any such person, other than a court, who accesses the lockbox does not have access to any document contained in the lockbox other than a form requesting to nominate a guardian. Section 3 of this bill provides that if a guardian applies to a court to be designated as the guardian of a person, the court must determine whether a guardian has already been designated for the person by accessing the lockbox. Section 3 also provides that if the court determines that two or more different designations exist and each designation is valid, the most recent designation shall be deemed to be the controlling designation. Section 3 further provides that if a guardian has already been designated, the application for guardianship cannot proceed unless the court revokes the designation.

Existing law authorizes the Secretary of State to charge fees and accept contributions to establish and maintain the Nevada Lockbox. (NRS 225.410) Section 12.5 of this bill authorizes a person who makes such a contribution to designate a specific purpose for which the contribution must be used.

Existing law provides that if a court appoints a nonresident guardian for an adult, the court is required to order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS. (NRS 159.0613) Section 4 of this bill additionally requires the court to: (1) order the guardian to provide notice of the designation of a registered agent to the court; and (2) after such notice is provided, monitor the information of the registered agent using the records of the Secretary of State. Sections 5-9 of this bill revise provisions of existing law governing registered agents to include the ability of a person to serve as a registered agent for a nonresident guardian.

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Any person who wishes to request to nominate another person to be appointed as his or her guardian may do so by completing a form requesting to nominate a guardian in accordance with this section.*

2. *A form requesting to nominate a guardian must be:*

- (a) Signed by the person requesting to nominate a guardian;*
- (b) Signed by two impartial adult witnesses who have no interest, financial or otherwise, in the estate of the person requesting to nominate a guardian and who attest that the person has the mental capacity to understand and execute the form; and*
- (c) Notarized.*

3. A request to nominate a guardian may be in substantially the following form, and must be witnessed and executed in the same manner as the following form:

REQUEST TO NOMINATE GUARDIAN

I,..... (insert your name), residing at..... (insert your address), am executing this notarized document as my written declaration and request for the person(s) designated below to be appointed as my guardian should it become necessary. I am advising the court and all persons and entities as follows:

1. As of the date I am executing this request to nominate a guardian, I have the mental capacity to understand and execute this request.

2. This request pertains to a (circle one): (guardian of the person)/(guardian of the estate)/(guardian of the person and estate).

3. Should the need arise, I request that the court give my preference to the person(s) designated below to serve as my appointed guardian.

4. I request that my..... (insert relation),..... (insert name), serve as my appointed guardian.

5. If..... (insert name) is unable or unwilling to serve as my appointed guardian, then I request that my..... (insert relation),..... (insert name), serve as my appointed guardian.

6. I do not, under any circumstances, desire to have any private, for-profit guardian serve as my appointed guardian.

(YOU MUST DATE AND SIGN THIS DOCUMENT)

I sign my name to this document on..... (date)

.....

(Signature)

(YOU MUST HAVE TWO QUALIFIED ADULT WITNESSES DATE AND SIGN THIS DOCUMENT)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed this request to nominate a guardian in my presence, that the principal appears to be of sound mind, has the mental capacity to understand and execute this document and is under no duress, fraud or undue influence, and that I have no interest, financial or otherwise, in the estate of the principal.

.....

(Signature of first witness)

.....

(Print name)

.....

(Date)

.....

(Signature of second witness)

.....
 (Print name)

.....
 (Date)

.....
CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of Nevada }

}

County of }

On this..... day of....., in the year....., before me,..... (insert name of notary public), personally appeared..... (insert name of principal),..... (insert name of first witness) and..... (insert name of second witness), personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they have signed this instrument. I declare under penalty of perjury that the persons whose names are subscribed to this instrument appear to be of sound mind and under no duress, fraud or undue influence.

.....
 (Signature of notarial officer)

(Seal, if any)

4. The Secretary of State shall make the form established in subsection 3 available on the Internet website of the Secretary of State.

5. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 3. 1. If a guardian applies to a court to be designated as the guardian of a person, the court must determine whether a guardian has already been designated for the person by accessing the Nevada Lockbox established by the Secretary of State pursuant to NRS 225.360 in accordance with the provisions of NRS 225.380.

2. When determining whether a guardian has already been designated for the person, if the court determines that two or more different designations exist and each designation is valid, the most recent designation shall be deemed to be the controlling designation.

3. If the court determines that a guardian has already been designated for the person, the application for guardianship cannot proceed unless the court revokes the designation.

Sec. 4. NRS 159.0613 is hereby amended to read as follows:

159.0613 1. Except as otherwise provided in subsection 3, in a proceeding to appoint a guardian for an adult, the court shall give preference to a nominated person or relative, in that order of preference:

(a) Whether or not the nominated person or relative is a resident of this State; and

(b) If the court determines that the nominated person or relative is qualified and suitable to be appointed as guardian for the adult.

2. In determining whether any nominated person, relative or other person listed in subsection 4 is qualified and suitable to be appointed as guardian for an adult, the court shall consider, if applicable and without limitation:

(a) The ability of the nominated person, relative or other person to provide for the basic needs of the adult, including, without limitation, food, shelter, clothing and medical care;

(b) Whether the nominated person, relative or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;

(c) Whether the nominated person, relative or other person has been judicially determined to have committed abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult, unless the court finds that it is in the best interests of the ward to appoint the person as guardian for the adult;

(d) Whether the nominated person, relative or other person is incompetent or has a disability; and

(e) Whether the nominated person, relative or other person has been convicted in this State or any other jurisdiction of a felony, unless the court determines that any such conviction should not disqualify the person from serving as guardian for the adult.

3. If the court finds that two or more nominated persons are qualified and suitable to be appointed as guardian for an adult, the court may appoint two or more nominated persons as co-guardians or shall give preference among them in the following order of preference:

(a) A person whom the adult nominated for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.

(b) A person whom the adult requested for the appointment as guardian for the adult in a ~~written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.~~ *request to nominate a guardian that is executed in accordance with section 2 of this act.*

4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsection 2, give consideration, among other factors, to:

(a) Any nomination or request for the appointment as guardian by the adult.

(b) Any nomination or request for the appointment as guardian by a relative.

(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the adult. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider any relative in the following order of preference:

(1) A spouse or domestic partner.

- (2) A child.
- (3) A parent.
- (4) Any relative with whom the adult has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the adult while competent.
- (5) Any relative currently acting as agent.
- (6) A sibling.
- (7) A grandparent or grandchild.
- (8) An uncle, aunt, niece, nephew or cousin.
- (9) Any other person recognized to be in a familial relationship with the adult.

(d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the adult while competent.

5. The court may appoint as guardian any nominated person, relative or other person listed in subsection 4 who is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:

- (a) The nonresident is more qualified and suitable to serve as guardian; and
- (b) The distance from the proposed guardian's place of residence and the adult's place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the adult because:

(1) A person or care provider in this State is providing continuing care and supervision for the adult;

(2) The adult is in a secured residential long-term care facility in this State; or

(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the adult will move to the proposed guardian's state of residence.

6. If the court appoints a nonresident as guardian for the adult:

(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met. ~~{ }~~

(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS ~~{ }~~ and *provide notice of the designation of a registered agent to the court. After the court is provided with such notice, the court shall monitor the information of the registered agent using the records of the Secretary of State.*

(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:

(1) The legal duties and responsibilities of the guardian pursuant to this chapter;

(2) The preparation of records and the filing of annual reports regarding the finances and well-being of the adult required pursuant to NRS 159.073;

(3) The rights of the adult;

(4) The availability of local resources to aid the adult; and

(5) Any other matter the court deems necessary or prudent.

7. If the court finds that there is not any suitable nominated person, relative or other person listed in subsection 4 to appoint as guardian, the court may appoint as guardian:

(a) The public guardian of the county where the adult resides if:

(1) There is a public guardian in the county where the adult resides; and

(2) The adult qualifies for a public guardian pursuant to chapter 253 of NRS;

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the adult will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595.

8. A person is not qualified to be appointed as guardian for an adult if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession that:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state in which the person practices his or her profession.

9. As used in this section:

(a) "Adult" means a person who is a ward or a proposed ward and who is not a minor.

(b) "Domestic partner" means a person in a domestic partnership.

(c) "Domestic partnership" means:

(1) A domestic partnership as defined in NRS 122A.040; or

(2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

(d) "Nominated person" means a person, whether or not a relative, whom an adult:

(1) Nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.

(2) Requests for the appointment as guardian for the adult in a ~~{written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.}~~ request to nominate a guardian that is executed in accordance with section 2 of this act.

(e) "Relative" means a person who is 18 years of age or older and who is related to the adult by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

Sec. 5. Chapter 77 of NRS is hereby amended by adding thereto a new section to read as follows:

"Nonresident guardian" means a person who is not a resident of this State and who is appointed as guardian for an adult pursuant to NRS 159.0613. As used in this section, "guardian" has the meaning ascribed to it in NRS 159.017.

Sec. 6. NRS 77.020 is hereby amended to read as follows:

77.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 77.030 to 77.270, inclusive, and section 5 of this act have the meanings ascribed to them in those sections.

Sec. 7. NRS 77.030 is hereby amended to read as follows:

77.030 "Appointment of agent" means a statement appointing an agent for service of process filed by a ~~{domestic}~~ :

1. Domestic entity that is not a filing entity or a nonqualified foreign entity under NRS 77.380 ~~{-}~~ ; or
2. Nonresident guardian.

Sec. 8. NRS 77.060 is hereby amended to read as follows:

77.060 "Entity" means a person that has a separate legal existence or has the power to acquire an interest in real property in its own name . ~~{other than:}~~
The term does not include:

1. ~~{An}~~ Any individual ~~{-}~~ other than a nonresident guardian;
2. A testamentary, inter vivos or charitable trust, with the exception of a business trust, statutory trust or similar trust;
3. An association or relationship that is not a partnership by reason of NRS 87.070, subsection 3 of NRS 87.4322 or similar provisions of the law of any other jurisdiction;
4. A decedent's estate; or
5. A public corporation, government or governmental subdivision, agency or instrumentality or a quasi-governmental instrumentality.

Sec. 9. NRS 77.250 is hereby amended to read as follows:

77.250 "Represented entity" means:

1. A domestic filing entity;
2. A domestic or qualified foreign limited-liability partnership that does not have an office in this State;
3. A qualified foreign entity;
4. A domestic or foreign unincorporated nonprofit association for which an appointment of agent has been filed;
5. A domestic entity that is not a filing entity for which an appointment of agent has been filed; ~~{or}~~

6. A nonqualified foreign entity for which an appointment of agent has been filed ~~[]~~ ; or

7. A nonresident guardian.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 225.330 is hereby amended to read as follows:

225.330 "Other document" means a document registered with the Secretary of State pursuant to NRS 225.370 and may include, without limitation, a passport, a birth certificate , ~~for~~ a marriage license ~~[]~~ or a form requesting to nominate a guardian that is executed in accordance with section 2 of this act.

Sec. 11.5. NRS 225.370 is hereby amended to read as follows:

225.370 If the Nevada Lockbox is established pursuant to NRS 225.360:

1. A person who wishes to establish a lockbox and thereby register a will or other document in the Nevada Lockbox must submit to the Secretary of State:

(a) An application in the form prescribed by the Secretary of State;

(b) A copy of the will or other document to be registered; and

(c) The fee, if any, established by the Secretary of State pursuant to subsection 1 of NRS 225.410.

2. If the person satisfies the requirements of subsection 1, the Secretary of State shall:

(a) Make an electronic reproduction of the will or other document and post it within the registrant's lockbox;

(b) Assign to the registrant a registration number and access code for the lockbox; and

(c) Provide to the registrant a registration card that includes, without limitation:

(1) The name of the registrant;

(2) The registration number assigned to the registrant pursuant to paragraph (b); and

(3) The access code assigned to the registrant pursuant to paragraph (b).

3. The Secretary of State shall establish procedures for, without limitation:

(a) The registration of a will or other document which replaces a will or other document that has been registered previously and posted within the Nevada Lockbox;

(b) The removal from the Nevada Lockbox of a will or other document that has been revoked at the request of the registrant; and

(c) The issuance of a duplicate registration card or the provision of other access by a registrant to his or her registration number and access code if a registration card issued pursuant to this section is lost, stolen, mutilated, destroyed or otherwise unavailable.

Sec. 12. NRS 225.380 is hereby amended to read as follows:

225.380 If the Nevada Lockbox is established pursuant to NRS 225.360:

1. Except as otherwise provided in this section, the Secretary of State shall not provide access to the lockbox of a registrant unless:

(a) The person requesting access provides the registration number and access code of the registrant;

(b) The Secretary of State determines that providing access to the lockbox is in the best interest of the registrant;

(c) Access to the lockbox is required pursuant to the lawful order of a court of competent jurisdiction; ~~for~~

(d) Access to the lockbox is requested by the registrant or his or her personal representative ~~for~~; or

(e) *Access to the lockbox is requested by a court, hospital, law enforcement agency or other entity that needs to determine whether a person has designated a guardian. Except as otherwise provided in subsection 2, the Secretary of State shall ensure that a person who needs access to the lockbox pursuant to this paragraph does not have access to any document contained in the lockbox other than a form requesting to nominate a guardian that is executed in accordance with section 2 of this act.*

2. *A court that requests access to the lockbox pursuant to paragraph (e) of subsection 1 may access any other document contained in the lockbox as is necessary to determine whether a person has made more than one designation of a guardian.*

3. A registrant or his or her personal representative may access the lockbox of the registrant for any purpose.

Sec. 12.5. NRS 225.410 is hereby amended to read as follows:

225.410 1. If the Nevada Lockbox is established pursuant to NRS 225.360, the Secretary of State may charge and collect fees for the registration of a will or other document pursuant to NRS 225.370.

2. The Secretary of State may accept gifts, grants, bequests and other contributions from any source for the purpose of carrying out the provisions of NRS 225.300 to 225.440, inclusive. A person who gives a gift, grant, bequest or other contribution may designate a specific purpose for the gift, grant, bequest or other contribution to carry out the provisions of NRS 225.300 to 225.440, inclusive.

Sec. 13. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations or 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 Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 935 to Senate Bill No. 229 amends NRS 225.410 to provide that a person who makes a gift, grant, bequest or other contribution to the Nevada Lockbox operated and maintained by the Office of the Secretary of State may designate a specific purpose for which the gift, grant, bequest or other contribution must be used.

Amendment adopted.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 229 establishes a process and model form through which a person who wishes to nominate another person, whether that person is a resident of Nevada or not, to be appointed as his or her guardian may do so by completing a form requesting to nominate a guardian. The form must be signed by the person and two impartial adult witnesses and notarized.

Further, Senate Bill No. 229 requires the Office of the Secretary of State to adopt a model form for such a request and to make the form available on the Office's Internet website. Senate Bill No. 229 provides that such requests are to be included in the Nevada Lockbox, the on-line registry authorized to be established and maintained on the Secretary of State's Internet website in which a person may register a will or other document.

Senate Bill No. 229 establishes the process through which a court will make a guardian designation including when two or more guardian designations exist.

Finally, a person may make a gift, grant bequest or other contribution to support the maintenance and operation of a specific lockbox, including the guardianship lockbox, authorized pursuant to NRS 225.300-225.440.

Roll call on Senate Bill No. 229:

YEAS—21.

NAYS—None.

Senate Bill No. 229 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 490.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 924.

SUMMARY—Revises provisions relating to the foreclosure of real property. (BDR 9-488)

AN ACT relating to real property; revising provisions relating to the foreclosure of real property; revising provisions relating to the Foreclosure Mediation Program; requiring Home Means Nevada, Inc., or its successor organization, to administer certain functions of the Program; replacing the Account for Foreclosure Mediation with the Account for Foreclosure Mediation Assistance; requiring the Interim Finance committee to administer the Account; providing for the continuation of the Program; requiring the State Controller to transfer money remaining in the Account for Foreclosure Mediation to the Account for Foreclosure Mediation Assistance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth procedures governing the foreclosure of real property upon default. Existing law gives a trustee under a deed of trust the power to sell the property to which the deed of trust applies, subject to certain restrictions, and requires a notice of default and election to sell real property subject to a deed of trust to include an affidavit setting forth certain information concerning the deed of trust. Section 1.5 of this bill removes the requirement for such an affidavit and section 1 of this bill replaces the requirement to include such an affidavit in residential foreclosures. (NRS 107.080)

Existing law provides for the establishment of a program for foreclosure mediation and generally requires that mediation, unless waived, be conducted as a condition of a judicial foreclosure proceeding or the exercise of a power of sale affecting owner-occupied housing. (NRS 107.086) Existing law also authorizes a mortgagor under a mortgage secured by owner-occupied housing or a grantor or the person who holds the title of record with respect to a deed of trust concerning owner-occupied housing to initiate mediation under certain circumstances. (NRS 107.0865) Existing law also provides that in a judicial foreclosure action concerning owner-occupied property, the mortgagor may elect to participate in the program for foreclosure mediation. (NRS 40.437) The Nevada Supreme Court is required to adopt rules to implement the program for foreclosure mediation, commonly known as the Foreclosure Mediation Program, including designating an entity to serve as the Mediation Administrator. (NRS 40.437, 107.086)

Sections 2, 3, 4 and 5 of this bill revise provisions governing the Foreclosure Mediation Program. Section 2 removes the provision of existing law that requires the Nevada Supreme Court to designate an entity to serve as the Mediation Administrator and instead requires Home Means Nevada, Inc., or its successor organization, to administer the Program. Section 2 requires Home Means Nevada, Inc., or its successor organization, to administer certain functions of the Program, including: (1) providing certain notices to certain grantors of a deed or persons who hold a title of record; (2) under certain circumstances, providing to the trustee a certificate which provides that mediation has been completed or is not required; and (3) serving upon certain persons a copy of a petition to participate in mediation, by certified mail. After mediation, section 2 requires Home Means Nevada, Inc., or its successor organization, to submit to the district court the terms of any loan modification or settlement agreement. The district court is required to enter an order describing the terms of any such modification or agreement.

Sections 2, 3, 4 and 5 authorize certain grantors of a deed, persons who hold the title of record or mortgagors to petition the court to participate in the Foreclosure Mediation Program. Sections 2, 3, 4 and 5 require such a person who seeks to participate in the Program to: (1) pay a \$25 filing fee upon filing such a petition; (2) serve a copy of the petition upon certain persons by certified mail, return receipt requested; and (3) pay his or her share of the mediation fee. Section 2 increases the fee for mediation services from \$400 to ~~(\$600.)~~ \$500. Section 2 additionally requires that \$100 of the fee collected for mediation services be deposited into the Account for Foreclosure Mediation Assistance.

Existing law also creates the Account for Foreclosure Mediation, the money in which may be expended only for the purpose of supporting the Foreclosure Mediation Program. Existing law provides for the payment of a fee of \$45 for deposit into the Account for Foreclosure Mediation at the time of recording a notice of default and election to sell real property. (NRS 107.080) Section 1.5 of this bill: (1) increases the fee from \$45 to \$95; (2) replaces the Account for

Foreclosure Mediation with the Account for Foreclosure Mediation Assistance; ~~[(2)]~~ (3) requires the Account to be administered by the Interim Finance Committee; and ~~[(3) clarifies]~~ (4) provides that the money collected for the Program may only be expended for the purpose of supporting the Program, ~~[-]~~ and the development and maintenance of an Internet portal for a program of foreclosure mediation. Section 9 of this bill requires the State Controller to transfer all money remaining in the Account for Foreclosure Mediation to the newly established Account for Foreclosure Mediation Assistance.

Senate Bill No. 512 of the 2015 Legislative Session (S.B. 512) provided that the Foreclosure Mediation Program ends on June 30, 2017. Sections 8 and 11 of this bill remove the prospective expiration, thereby establishing a permanent Foreclosure Mediation Program. (Chapter 517, Statutes of Nevada 2015, p. 3334)

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In addition to the requirements set forth in NRS 107.080, 107.085 and 107.086, the power of sale for a residential foreclosure is subject to the following requirements and conditions and must not be executed until:*

(a) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 2 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property pursuant to subsection 2 of NRS 107.080, together with a notarized affidavit of authority to exercise the power of sale. The affidavit required by this paragraph must state under penalty of perjury the following information, which must be based on the direct, personal knowledge of the affiant or the personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135:

(1) The full name and business address of the current trustee or the current trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the current servicer of the obligation or debt secured by the deed of trust.

(2) *That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust or that the beneficiary or its successor in interest or the trustee is entitled to enforce the obligation or debt secured by the deed of trust. For the purposes of this subparagraph, if the obligation or debt is an instrument, as defined in subsection 2 of NRS 104.3103, a beneficiary or its successor in interest or the trustee is entitled to enforce the instrument if the beneficiary or its successor in interest or the trustee is:*

(I) The holder of the instrument;

(II) A nonholder in possession of the instrument who has the rights of a holder; or

(III) A person not in possession of the instrument who is entitled to enforce the instrument pursuant to a court order issued under NRS 104.3309.

(3) *That the beneficiary or its successor in interest, the servicer of the obligation or debt secured by the deed of trust or the trustee, or an attorney representing any of those persons, has sent to the obligor or borrower of the obligation or debt secured by the deed of trust a written statement of:*

(I) That amount of payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement;

(II) The amount in default;

(III) The principal amount of the obligation or debt secured by the deed of trust;

(IV) The amount of accrued interest and late charges;

(V) A good faith estimate of all fees imposed in connection with the exercise of the power of sale; and

(VI) Contact information for obtaining the most current amounts due and the local or toll-free telephone number described in subparagraph (4).

(4) *A local or toll-free telephone number that the obligor or borrower of the obligation or debt may call to receive the most current amounts due and a recitation of the information contained in the affidavit.*

(5) *The date and the recordation number or other unique designation of, and the name of each assignee under, each recorded assignment of the deed of trust. The information required to be stated in the affidavit pursuant to this subparagraph may be based on:*

(I) The direct, personal knowledge of the affiant;

(II) The personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135;

(III) Information contained in the records of the recorder of the county in which the property is located; or

(IV) *The title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS.*

2. *The period provided in paragraph (a) of subsection 1, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. In addition to meeting the requirements set forth in subsection 1 and NRS 107.080, the notice of default and election must:*

(a) *If the property is subject to the requirements of NRS 107.400 to 107.560, inclusive, contain the declaration required by subsection 6 of NRS 107.510;*

(b) *If, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, include the affidavit and certification required by subsection 6 of NRS 107.130; and*

(c) *Comply with the provisions of NRS 107.087.*

3. *In addition to providing notice pursuant to the requirements set forth in subsection 4 of NRS 107.080, the trustee, or other person authorized to make the sale under the terms of the deed of trust or transfer in trust with respect to a residential foreclosure, shall, after expiration of the applicable period specified in paragraph (d) of subsection 2 of NRS 107.080, following the recording of the notice of breach and election to sell, and before the making of the sale, comply with the provisions of NRS 107.087.*

4. *In addition to the grounds provided in paragraph (a) of subsection 5 of NRS 107.080, a sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if the trustee or other person authorized to make the sale does not substantially comply with any applicable provisions set forth in NRS 107.086 and 107.087, and the applicant otherwise complies with subsection 5 of NRS 107.080.*

5. *As used in this section:*

(a) *"Residential foreclosure" means the sale of a single-family residence under a power of sale granted by this section. As used in this paragraph, "single-family residence":*

(1) *Means a structure that is comprised of not more than four units.*

(2) *Does not include vacant land or any time share or other property regulated under chapter 119A of NRS.*

(b) *"Trustee" has the meaning ascribed in NRS 107.080.*

Sec. 1.5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 106.210, 107.085 and 107.086, and section 1 of this act, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an

obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) ~~{Except as otherwise provided in paragraph (b), in}~~ *In the case of any trust agreement coming into force:*

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment.

(b) ~~{In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.~~

~~—(c)} The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation. {which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale. Except as otherwise provided in subparagraph (5), the affidavit required by this paragraph must state under the penalty of perjury the following information, which must be based on the direct, personal knowledge of the affiant or the personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135:~~

~~—(1) The full name and business address of the current trustee or the current trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the current servicer of the obligation or debt secured by the deed of trust.~~

~~—(2) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust or that the beneficiary or its successor in interest or the trustee is entitled to enforce the obligation or debt secured by~~

~~the deed of trust. For the purposes of this subparagraph, if the obligation or debt is an instrument, as defined in subsection 2 of NRS 104.3103, a beneficiary or its successor in interest or the trustee is entitled to enforce the instrument if the beneficiary or its successor in interest or the trustee is:~~

~~—— (I) The holder of the instrument;~~

~~—— (II) A nonholder in possession of the instrument who has the rights of a holder; or~~

~~—— (III) A person not in possession of the instrument who is entitled to enforce the instrument pursuant to a court order issued under NRS 104.3309.~~

~~—— (3) That the beneficiary or its successor in interest, the servicer of the obligation or debt secured by the deed of trust or the trustee, or an attorney representing any of those persons, has sent to the obligor or borrower of the obligation or debt secured by the deed of trust a written statement of:~~

~~—— (I) The amount of payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement;~~

~~—— (II) The amount in default;~~

~~—— (III) The principal amount of the obligation or debt secured by the deed of trust;~~

~~—— (IV) The amount of accrued interest and late charges;~~

~~—— (V) A good faith estimate of all fees imposed in connection with the exercise of the power of sale; and~~

~~—— (VI) Contact information for obtaining the most current amounts due and the local or toll free telephone number described in subparagraph (4).~~

~~—— (4) A local or toll free telephone number that the obligor or borrower of the obligation or debt may call to receive the most current amounts due and a recitation of the information contained in the affidavit.~~

~~—— (5) The date and the recordation number or other unique designation of, and the name of each assignee under, each recorded assignment of the deed of trust. The information required to be stated in the affidavit pursuant to this subparagraph may be based on:~~

~~—— (I) The direct, personal knowledge of the affiant;~~

~~—— (II) The personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135;~~

~~—— (III) Information contained in the records of the recorder of the county in which the property is located; or~~

~~—— (IV) The title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS.~~

~~➤ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time share plan created pursuant to chapter 119A of NRS~~

~~if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.~~

~~—(d)~~ (c) The beneficiary or its successor in interest or the servicer of the obligation or debt secured by the deed of trust has instructed the trustee to exercise the power of sale with respect to the property.

~~—(e)~~ (d) Not less than 3 months have elapsed after the recording of the notice or, if the notice includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, not less than 60 days have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 ~~or the period provided in paragraph (b) of subsection 2,~~ commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must ~~be~~

~~—(a) Describe~~ *describe* the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2 . ~~be~~

~~—(b) If the property is subject to the requirements of NRS 107.400 to 107.560, inclusive, contain the declaration required by subsection 6 of NRS 107.510;~~

~~—(c) If, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, include the affidavit and certification required by subsection 6 of NRS 107.130; and~~

~~—(d) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.]~~

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the applicable period specified in paragraph (d) of subsection 2 following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed

under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in a public place in the county where the property is situated; *and*

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560 . ~~}; and~~

~~—(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.}~~

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. Except as otherwise provided in subsection 7, a sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ; ~~for any applicable provision of NRS 107.086 and 107.087.}~~

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 30 days after the date on which the trustee's deed upon sale is recorded pursuant to subsection 10 in the office of the county recorder of the county in which the property is located; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 5 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 90 days after the date of the sale.

7. Upon expiration of the time for commencing an action which is set forth in subsections 5 and 6, any failure to comply with the provisions of this section or any other provision of this chapter does not affect the rights of a bona fide purchaser as described in NRS 111.180.

8. If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection 2, 3 or 4, the court must award to the grantor or the person who holds title of record:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs,
➔ unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.

9. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

10. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

11. Within 5 days after recording the trustee's deed upon sale, the trustee or successful bidder, whoever recorded the trustee's deed upon sale pursuant to subsection 10, shall cause a copy of the trustee's deed upon sale to be posted conspicuously on the property. The failure of a trustee or successful bidder to effect the posting required by this subsection does not affect the validity of a sale of the property to a bona fide purchaser for value without knowledge of the failure.

12. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 10, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 10 and for reasonable attorney's fees and the costs of bringing the action.

13. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of ~~[\$45]~~ \$95 for deposit in the Account for Foreclosure ~~[Mediation]~~ *Mediation Assistance*, which is hereby created in the State General Fund. The Account must be administered by the ~~Court Administrator~~ *Interim Finance Committee* and the money in the Account may be expended only for the purpose of ~~[supporting]~~ *;*

~~(1) Supporting a program of foreclosure mediation ~~established by Supreme Court Rule.~~; and~~

~~(2) The development and maintenance of an Internet portal for a program of foreclosure mediation.~~

(c) A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

14. The fees collected pursuant to paragraphs (a) and (b) of subsection 13 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account for Foreclosure Mediation Assistance as prescribed pursuant to subsection 13. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in subsection 13.

15. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 13.

16. As used in this section ~~:-~~

~~—(a) "Residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this paragraph, "single family residence":~~

~~—(1) Means a structure that is comprised of not more than four units.~~

~~—(2) Does not include vacant land or any time share or other property regulated under chapter 119A of NRS.~~

~~—(b) "Trustee", "trustee" means the trustee of record.~~

Sec. 2. NRS 107.086 is hereby amended to read as follows:

107.086 1. Except as otherwise provided in this subsection and subsection 4 of NRS 107.0865, in addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing ~~and for which a notice of default and election to sell is mailed on or before December 1, 2016, to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080~~ is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power

of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) *Contact information which the grantor or the person who holds the title of record may use to serve notice as required pursuant to subsection 3 if the grantor or person who holds the title does not elect to waive mediation;*

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

~~[(3)]~~ (4) A notice provided by ~~[the Mediation Administrator]~~ *Home Means Nevada, Inc., or its successor organization*, indicating that the grantor or the person who holds the title of record ~~[will be enrolled]~~ *may petition the district court to participate in mediation pursuant to this section if he or she files such a petition, pays a \$25 filing fee, serves a copy of the petition upon the beneficiary of the deed, Home Means Nevada, Inc., or its successor organization, and the trustee by certified mail, return receipt requested, and pays to the [Mediation Administrator] district court his or her share of the fee established pursuant to subsection [11.] 12; and*

~~[(4)]~~ (5) A form upon which the grantor or the person who holds the title of record may indicate an election to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to ~~[the Mediation Administrator]~~ *Home Means Nevada, Inc., or its successor organization*, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) In addition to including the information described in paragraph (a) with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080, provides to the grantor or the person who holds the title of record the information described in paragraph (a) concurrently with, but separately from, the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080;

(c) Serves a copy of the notice upon ~~[the Mediation Administrator]~~ *Home Means Nevada, Inc., or its successor organization*;

(d) If the owner-occupied housing is located within a common-interest community, notifies the unit-owners' association of the common-interest community, not later than 10 days after mailing the copy of the notice of default and election to sell as required by subsection 3 of NRS 107.080, that the exercise of the power of sale is subject to the provisions of this section; and

(e) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by ~~{the Mediation Administrator}~~ Home Means Nevada., Inc., or its successor organization, pursuant to subsection 4 or 7 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by ~~{the Mediation Administrator}~~ Home Means Nevada., Inc., or its successor organization, pursuant to subsection 8 which provides that mediation has been completed in the matter.

3. If the grantor or the person who holds the title of record elects to waive mediation, he or she shall, not later than 30 days after service of the notice in the manner required by NRS 107.080 , ~~{for December 31, 2016, whichever is earlier,}~~ complete the form required by subparagraph ~~{(4)}~~ (5) of paragraph (a) of subsection 2 and return the form to the trustee and ~~{the Mediation Administrator}~~ Home Means Nevada., Inc., or its successor organization, by certified mail, return receipt requested. If the grantor or the person who holds the title of record does not elect to waive mediation, he or she shall, not later than 30 days after the service of the notice in the manner required by NRS 107.080 , ~~{for December 31, 2016, whichever is earlier, pay to the Mediation Administrator}~~ petition the district court to participate in mediation pursuant to this section, at the time of filing such a petition, pay to the clerk of the court a fee of \$25 and his or her share of the fee established pursuant to subsection ~~{11}~~ 12. The grantor or the person who holds the title of record shall serve a copy of the petition, by certified mail, return receipt requested, upon the beneficiary of the deed of trust and Home Means Nevada., Inc., or its successor organization. Upon receipt of the ~~{share of the fee established pursuant to subsection 11 owed by the grantor or the person who holds title of record,}~~ copy of the petition, ~~{the Mediation Administrator}~~ Home Means Nevada., Inc., or its successor organization, shall notify the trustee ~~{,}~~ and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the ~~{enrollment}~~ petition of the grantor or person who holds the title of record to participate in mediation pursuant to this section . ~~{and}~~ Upon receipt of a petition pursuant to this section, the district court shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. ~~{The trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the enrollment of the grantor or the person who holds the title of record to participate in mediation.}~~ If the grantor or person who holds the title of record

~~[is enrolled]~~ satisfies the requirements of this subsection to participate in mediation pursuant to this section, no further action may be taken to exercise the power of sale until the completion of the mediation.

4. If the grantor or the person who holds the title of record indicates on the form described in subparagraph ~~[(4)]~~ (5) of paragraph (a) of subsection 2 an election to waive mediation ~~[or]~~, fails to petition the district court pursuant to subsection 3 or fails to pay to the ~~[Mediation Administrator]~~ district court his or her share of the fee established pursuant to subsection ~~[(11)]~~ 12 as required by subsection 3, ~~[the Mediation Administrator]~~ Home Means Nevada, Inc., or its successor organization, shall, not later than 60 days after ~~[the Mediation Administrator]~~ Home Means Nevada, Inc., or its successor organization, receives the form indicating an election to waive mediation or 90 days after the service of the notice in the manner required by NRS 107.080, whichever is earlier, provide to the trustee a certificate which provides that no mediation is required in the matter.

5. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection ~~[(11)]~~ 12. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or his or her representative, or the person who holds the title of record or his or her representative, shall attend the mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note, ~~[and]~~ each assignment of the deed of trust or mortgage note ~~[-]~~ and any documents created in connection with a loan modification. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

6. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 5 or does not have the authority or access to a person with the authority required by subsection 5, the mediator shall prepare and submit to the ~~[Mediation Administrator]~~ district court a ~~[petition and]~~ recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

7. If the grantor or the person who holds the title of record is enrolled to participate in mediation pursuant to this section but fails to attend the mediation, the ~~[Mediation Administrator]~~ district court shall dismiss the petition. Home Means Nevada, Inc., or its successor organization, shall, not later than 30 days after the scheduled mediation, provide to the trustee a certificate which states that no mediation is required in the matter.

8. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the ~~{Mediation Administrator}~~ *district court* a recommendation that the ~~{matter be terminated.}~~ *petition be dismissed. The court may dismiss the petition and if the petition is dismissed, transmit a copy of the order of dismissal to* ~~{The Mediation Administrator}~~ *Home Means Nevada, Inc., or its successor organization. Home Means Nevada, Inc., or its successor organization, shall, not later than 30 days after* ~~{submittal of the mediator's recommendation that the matter be terminated.}~~ *receipt of such an order, provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.*

9. *If the parties agree to a loan modification or settlement, the mediator shall notify the district court. Upon receipt of such notification, the court shall enter an order describing the terms of any loan modification or settlement agreement.*

10. Upon receipt of the certificate provided to the trustee by ~~{the Mediation Administrator}~~ *Home Means Nevada, Inc., or its successor organization*, pursuant to subsection 4, 7 or 8, if the property is located within a common-interest community, the trustee shall, not later than 10 days after receipt of the certificate, notify the unit-owners' association of the existence of the certificate.

~~{10.}~~ 11. During the pendency of any mediation pursuant to this section, a unit's owner must continue to pay any obligation, other than any past due obligation.

~~{11.}~~ 12. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) ~~{Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.}~~

~~{(b)}~~ Ensuring that mediations occur in an orderly and timely manner.

~~{(c)}~~ (b) Requiring each party to a mediation to provide such information as the mediator determines necessary.

~~{(d)}~~ (c) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

~~{(e)}~~ (d) Establishing a total fee of not more than ~~{\$400-\$600}~~ \$500 that may be charged and collected by the ~~{Mediation Administrator}~~ *district court* for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation. On or before the first Monday of each month, the clerk of the district court shall pay over to the county treasurer an amount equal to \$100 of each fee charged and collected pursuant to this paragraph. The county treasurer shall remit quarterly all such amounts turned over to the county treasurer to the State Controller for deposit to the Account for Foreclosure

Mediation Assistance created by paragraph (b) of subsection 13 of NRS 107.080.

~~{12.}~~ (e) Prescribing a form supplied by the district court to file a petition to participate in mediation pursuant to this section.

13. Except as otherwise provided in subsection ~~{14.}~~ 15, the provisions of this section do not apply if:

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

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

~~{13.}~~ 14. A noncommercial lender is not excluded from the application of this section.

~~{14.}~~ 15. ~~{The Mediation Administrator and each}~~ Each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

~~{15.}~~ 16. Home Means Nevada, Inc., or its successor organization, shall, at least once each calendar quarter, submit to the Interim Finance Committee a report:

(a) Concerning the status of the Account for Foreclosure Mediation Assistance; and

(b) Any other information required by the Interim Finance Committee.

17. The Administrator of the Division of Internal Audits of the Office of Finance shall cause to be conducted, not less than annually, an audit of Home Means Nevada, Inc., or its successor organization.

18. As used in this section:

(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.

(b) ~~{ "Mediation Administrator" means the entity so designated pursuant to subsection 11. }~~

~~{(c)}~~ "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

~~{(d)}~~ (c) "Obligation" has the meaning ascribed to it in NRS 116.310313.

~~{(e)}~~ (d) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

~~{(f)}~~ (e) "Unit-owners' association" has the meaning ascribed to it in NRS 116.011.

~~{(g)}~~ (f) "Unit's owner" has the meaning ascribed to it in NRS 116.095.

Sec. 3. NRS 107.0865 is hereby amended to read as follows:

107.0865 1. A mortgagor under a mortgage secured by owner-occupied housing or a grantor or the person who holds the title of record with respect to any trust agreement which concerns owner-occupied housing may initiate mediation to negotiate a loan modification under the mediation process set forth in NRS 107.086 if : ~~[, on or before December 31, 2016;]~~

(a) A local housing counseling agency approved by the United States Department of Housing and Urban Development certifies that the mortgagor, grantor or person who holds the title of record:

- (1) Has a documented financial hardship; and
- (2) Is in imminent risk of default; and

(b) The mortgagor, grantor or person who holds the title of record:

(1) ~~[Submits a form prescribed by the Mediation Administrator]~~ *Files a petition with the district court* indicating an election to enter into mediation pursuant to this section; ~~[and]~~

(2) *At the time of filing such a petition, pays to the clerk of the court a fee of \$25;*

(3) Pays to the ~~[Mediation Administrator]~~ *district court* his or her share of the fee established pursuant to subsection ~~[11]~~ 12 of NRS 107.086 ~~[,]~~ ; and

(4) *Serves a copy of the petition upon Home Means Nevada., Inc., or its successor organization, and the beneficiary of the deed of trust, by certified mail, return receipt requested.*

2. Upon ~~[satisfaction of the requirements of]~~ receipt of a copy of a petition pursuant to subsection 1, ~~[the Mediation Administrator]~~ *Home Means Nevada., Inc., or its successor organization*, shall notify the mortgage servicer, by certified mail, return receipt requested, of the ~~[enrollment]~~ petition of the mortgagor, grantor or person who holds the title of record to participate in mediation pursuant to this section . ~~[and]~~ *Upon receipt of a copy of a petition pursuant to subsection 1, the district court shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. [The mortgage servicer] Home Means Nevada., Inc., or its successor organization, shall notify [the mortgagee or the beneficiary of the deed of trust, as applicable, and] every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the [enrollment] petition of the mortgagor, grantor or person who holds the title of record to participate in mediation.*

3. Each mediation required by this section must be conducted in conformity with the requirements of subsections 5 and 6 of NRS 107.086.

4. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the ~~[Mediation Administrator]~~ *district court* a recommendation that the ~~[matter be terminated.]~~ *petition be dismissed. The court may dismiss the petition and transmit a copy of the order of dismissal to [The Mediation Administrator] Home Means Nevada, Inc., or its successor organization. Home Means Nevada, Inc., or its successor organization shall, not later than*

30 days after ~~{submittal of the mediator's recommendation that the matter be terminated,}~~ receipt of the order of dismissal, provide to the mortgage servicer a certificate which provides that the mediation required by this section has been completed in the matter. If ~~{the Mediation Administrator}~~ *Home Means Nevada, Inc., or its successor organization*, provides such a certificate, the requirement for mediation pursuant to NRS 107.086 is satisfied.

5. The certificate provided pursuant to subsection 4 must be in the same form as the certificate provided pursuant to subsection 8 of NRS 107.086, and may be recorded in the office of the county recorder in which the trust property, or some part thereof, is situated. The recording of the certificate in the office of the county recorder in which the trust property, or some part thereof, is situated shall be deemed to be the recording of the certificate required pursuant to subparagraph (2) of paragraph (e) of subsection 2 of NRS 107.086.

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

7. ~~{The Mediation Administrator}~~ *Home Means Nevada, Inc., or its successor organization*, and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

8. As used in this section:

(a) "Financial hardship" means a documented event that would prevent the long-term payment of any debt relating to a mortgage or deed of trust secured by owner-occupied housing, including, without limitation:

- (1) The death of the borrower or co-borrower;
- (2) Serious illness;
- (3) Divorce or separation; or
- (4) Job loss or a reduction in pay.

(b) "Imminent risk of default" means the inability of a grantor or the person who holds the title of record to make his or her mortgage payment within the next 90 days.

(c) ~~{ "Mediation Administrator" has the meaning ascribed to it in NRS 107.086. }~~

~~{(d)}~~ "Noncommercial lender" has the meaning ascribed to it in NRS 107.086.

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

Sec. 3.5. NRS 107.095 is hereby amended to read as follows:

107.095 1. The notice of default required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice must be sent to the address of the trust property. Failure to give the notice, except as otherwise provided in subsection 3, releases the guarantor or surety from his or her obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to

NRS 107.080 or the obligation of any guarantor or surety to whom the notice was properly given.

2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in paragraph (a) of subsection 2 of NRS 107.080;

(2) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the expiration of the period described in paragraph ~~[(b)] (a)~~ of subsection ~~[2] 1~~ of ~~[NRS 107.080]~~ *section 1 of this act*; or

(3) Any extension of the applicable period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

Sec. 4. NRS 107.550 is hereby amended to read as follows:

107.550 1. A civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan must be dismissed without prejudice, any notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 must be rescinded, and any pending foreclosure sale must be cancelled, if:

(a) The borrower accepts a permanent foreclosure prevention alternative;

(b) A notice of sale is not recorded within 9 months after the notice of default and election to sell is recorded pursuant to subsection 2 of NRS 107.080; or

(c) A foreclosure sale is not conducted within 90 calendar days after a notice of sale is recorded pursuant to subsection 4 of NRS 107.080.

2. The periods specified in paragraphs (b) and (c) of subsection 1 are tolled:

(a) If a borrower has filed a case under 11 U.S.C. Chapter 7, 11, 12 or 13, until the bankruptcy court enters an order closing or dismissing the bankruptcy case or granting relief from a stay of foreclosure or trustee's sale;

(b) If mediation pursuant to NRS 107.086 is required, until the date on which ~~[the Mediation Administrator, as defined in NRS 107.086]~~ *Home Means Nevada, Inc., or its successor organization*, issues the certificate pursuant to NRS 107.086 that mediation has been completed in the matter;

(c) If mediation pursuant to NRS 40.437 is required or if a court orders participation in a settlement program, until the date on which the mediation or participation in a settlement program is terminated; or

(d) If a borrower has submitted an application for a foreclosure prevention alternative, until the date on which:

(1) A written offer for a foreclosure prevention alternative is submitted to the borrower;

(2) A written statement of the denial of the application has been submitted to the borrower pursuant to subsection 4 of NRS 107.530, and any appeal period pursuant to subsection 5 of NRS 107.530 has expired; or

(3) If the borrower has appealed the denial of an application for a foreclosure prevention alternative, a written offer for a foreclosure prevention alternative or a written denial of the appeal is submitted to the borrower.

3. If, pursuant to subsection 1, a civil action is dismissed, a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 is rescinded, or any pending foreclosure sale is cancelled, the mortgagee or beneficiary of the deed of trust is thereupon restored to its former position and has the same rights as though an action for a judicial foreclosure had not been commenced or a notice of default and election to sell had not been recorded.

Sec. 5. NRS 40.437 is hereby amended to read as follows:

40.437 1. An action pursuant to NRS 40.430 affecting owner-occupied housing that is commenced in a court of competent jurisdiction ~~for or before December 1, 2016,~~ is subject to the provisions of this section.

2. In an action described in subsection 1:

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

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

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

(3) A notice provided by ~~the Mediation Administrator~~ *Home Means Nevada, Inc., or its successor organization*, indicating that the mortgagor ~~will be enrolled~~ *may petition the court* to participate in mediation pursuant to this section if he or she pays to the ~~Mediation Administrator~~ *court* his or her share of the fee established pursuant to subsection ~~11~~ 12 of NRS 107.086; and

(4) A form upon which the mortgagor may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the plaintiff and one envelope addressed to ~~the Mediation Administrator~~ *Home Means Nevada, Inc., or its successor organization*, which the mortgagor may use to comply with the provisions of subsection 3; and

(b) The plaintiff must submit a copy of the complaint to ~~the Mediation Administrator~~ *Home Means Nevada, Inc., or its successor organization*.

3. If the mortgagor elects to waive mediation, he or she shall, not later than the date on which an answer to the complaint is due, ~~for December 31, 2016, whichever is earlier,~~ complete the form required by subparagraph (4) of

paragraph (a) of subsection 2 and file the form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested. If the mortgagor does not elect to waive mediation, he or she shall, not later than the date on which an answer to the complaint is due, pay to the ~~Mediation Administrator~~ court his or her share of the fee established pursuant to subsection ~~11~~ 12 of NRS 107.086. Upon receipt of the share of the fee established pursuant to subsection ~~11~~ 12 of NRS 107.086 owed by the mortgagor, the ~~Mediation Administrator~~ court shall notify the plaintiff, by certified mail, return receipt requested, of the ~~enrollment~~ grant of the petition of the mortgagor to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. Upon the plaintiff's receipt of such notice, the plaintiff shall notify any person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the mortgagor to participate in mediation. The judicial foreclosure action must be stayed until the completion of the mediation. If the mortgagor indicates on the form required by subparagraph (4) of paragraph (a) of subsection 2 of his or her election to waive mediation or fails to pay the ~~Mediation Administrator~~ court his or her share of the fee established pursuant to subsection ~~11~~ 12 of NRS 107.086, as required by this subsection, no mediation is required in the action and the action pursuant to NRS 40.430 must proceed.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection ~~11~~ 12 of NRS 107.086. The plaintiff or a representative, and the mortgagor or his or her representative, shall attend the mediation. If the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

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

6. If the mortgagor is enrolled to participate in mediation pursuant to this section but fails to attend the mediation, no mediation is required and the judicial foreclosure action must proceed as if the mortgagor had elected to waive mediation.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the court ~~and the Mediation Administrator~~ a recommendation that

the mediation be terminated. The court may terminate the mediation and proceed with the judicial foreclosure action.

8. The rules adopted by the Supreme Court pursuant to subsection ~~{11}~~ 12 of NRS 107.086 apply to a mediation conducted pursuant to this section, and the Supreme Court may adopt any additional rules necessary to carry out the provisions of this section.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

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

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

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

11. ~~{The Mediation Administrator and each}~~ *Each* mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

12. As used in this section:

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

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

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

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

Sec. 5.5. NRS 100.091 is hereby amended to read as follows:

100.091 1. For each loan requiring the deposit of money to an escrow account, loan trust account or other impound account for the payment of taxes, assessments, rental or leasehold payments, insurance premiums or other obligations related to the encumbered property, the lender shall:

(a) Require contributions in an amount reasonably necessary to pay the obligations as they become due.

(b) Unless money in the account is insufficient, pay in a timely manner the obligations as they become due.

(c) At least annually, analyze the account. The analysis of each account must be performed to determine whether sufficient money is contributed to the account on a monthly basis to pay for the projected disbursements from the account. At least 30 days before the effective date of any increased contribution to the account based on the analysis, a statement must be sent to the borrower showing the method of determining the amount of money held in

the account, the amount of projected disbursements from the account and the amount of the reserves which may be held in accordance with federal guidelines.

2. If, upon completion of the analysis, it is determined that an account is not sufficiently funded to pay from the normal payment the items when due on the account, the lender shall offer the borrower the opportunity to correct the deficiency by making one lump-sum payment or by making increased monthly contributions, in an amount required by the lender. The lender shall not declare a default on the account solely because the borrower is unable to pay the amount of the deficiency in one lump sum.

3. Except for payments made by a borrower for a lender to recover previous deficiencies in contributions to the account pursuant to subsection 2, the borrower is entitled pursuant to subsection 4 to the amount by which the borrower's contributions to the account exceed the amount reasonably necessary to pay the annual obligations due from the account, together with interest thereon at the rate established pursuant to NRS 99.040.

4. If, upon completion of the analysis, it is determined that the amount of money held by the lender in the account, together with anticipated future monthly contributions to the account to be credited to the account before the dates items are due on the account, exceed the amount of money required to pay the items when due, the lender shall, not later than 30 days after completion of its annual review of the account, notify the borrower:

(a) Of the amount by which the contributions and interest earned pursuant to subsection 3 exceed the amount reasonably necessary to pay the annual obligations due from the account; and

(b) That the borrower may, not later than 20 days after receipt of the notice, specify that the lender:

(1) Repay the excess money and interest promptly to the borrower;

(2) Apply the excess money and interest to the outstanding principal balance; or

(3) Retain the excess money and interest in the account.

5. If the borrower fails to specify the disposition of the excess money and interest as provided in paragraph (b) of subsection 4, the lender shall maintain the excess money and interest in the account.

6. If any payment on the loan is delinquent at the time of the analysis, the lender shall retain any excess money and interest in the account and apply the excess money and interest in the account toward payment of the delinquency.

7. A lender who violates any provision of subsections 4, 5 and 6 is liable to the borrower for a civil penalty of not more than \$1,000.

8. The provisions of this section apply exclusively to:

(a) A loan secured by a single family residence, as that term is defined in ~~[NRS 107.080;]~~ *section 1 of this act*; and

(b) A unit in a common-interest community that is used exclusively for residential use, as those terms are defined in chapter 116 of NRS.

9. As used in this section:

(a) "Borrower" means any person who receives a loan secured by real property and who is required to make advance contributions for the payment of taxes, insurance premiums or other expenses related to the property.

(b) "Lender" means any person who makes loans secured by real property and who requires advance contributions for the payment of taxes, insurance premiums or other expenses related to the property.

Sec. 6. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 5, 6 or 7, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the total amount of the deficiency in payment, with a separate statement of:

(I) The amount of the association's lien that is prior to the first security interest on the unit pursuant to subsection 3 of NRS 116.3116 as of the date of the notice;

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

(III) The amount of the lien described in sub-subparagraph (I) that is attributable to amounts described in NRS 116.310312 as of the date of the notice; and

(IV) The amount of the lien described in sub-subparagraph (I) that is attributable to the costs of enforcing the association's lien as of the date of the notice.

(3) State that:

(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and

(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.

(4) State the name and address of the person authorized by the association to enforce the lien by sale.

(5) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date of sale, failed to pay the assessments and other sums that are due to the association in accordance with subsection 1 of NRS 116.3116.

(e) The association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, an affidavit which states, based on the direct, personal knowledge of the affiant, the personal knowledge which the affiant acquired by a review of a trustee sale guarantee or a similar product or the personal knowledge which the affiant acquired by a review of the business records of the association or other person conducting the sale, which business records must meet the standards set forth in NRS 51.135, the following:

(1) The name of each holder of a security interest on the unit to which the notice of default and election to sell and the notice of sale was mailed, as required by subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635; and

(2) The address at which the notices were mailed to each such holder of a security interest.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days described in paragraph (c) of subsection 1 begins on the first day following:

(a) The date on which the notice of default and election to sell is recorded; or

(b) The date on which a copy of the notice of default and election to sell is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

↳ whichever date occurs later.

4. An association may not mail to a unit's owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless:

(a) Not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner:

(1) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(2) A proposed repayment plan; and

(3) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing; and

(b) Within 30 days after the date on which the information described in paragraph (a) is mailed, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board. If the unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the information described in paragraph (a) is mailed and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date, the association may take any lawful action pursuant to subsection 1 to enforce its lien.

5. The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of 116.311635.

6. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

7. The association may not foreclose a lien by sale if the association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:

(a) The trustee of record has recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (e) of subsection 2 of NRS 107.086; or

(b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection ~~10~~ 11 of NRS 107.086.

Sec. 7. Section 10.5 of chapter 517, Statutes of Nevada 2015, at page 3334, is hereby amended to read as follows:

Sec. 10.5. If the ~~Court Administrator~~ *Interim Finance Committee* determines that money in the Account for Foreclosure Mediation Assistance created by NRS 107.080 is not sufficient to support the mediation process set forth in NRS 107.086, as amended by section 2.5 of this act, and the mediation process set forth in section 1 of this act, ~~the Court Administrator~~ *Home Means Nevada, Inc., or its successor organization*, may submit to the Interim Finance Committee a request for an allocation from the Contingency Account created by NRS 353.266 for deposit in the Account for Foreclosure Mediation Assistance for such purpose.

Sec. 8. Section 13 of chapter 517, Statutes of Nevada 2015, at page 3334, is hereby amended to read as follows:

Sec. 13. 1. This section and sections 2.5, 8.5, 10.5 and 11 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective upon passage and approval. ~~and expires by limitation on June 30, 2017.~~

~~3. Sections 1.5, 2, 3 to 8, inclusive, 9, 10 and 12 of this act become effective on June 30, 2017.~~

~~4. Section 10.5 of this act expires by limitation on June 30, 2017.]~~

Sec. 9. The State Controller shall transfer to the Account for Foreclosure Mediation Assistance created by NRS 107.080, as amended by section 1.5 of this act, as soon as practicable on or after the effective date of this act, all money remaining in the Account for Foreclosure Mediation created by NRS 107.080 that has not been committed for expenditure.

Sec. 10. 1. The amendatory provisions of this act apply to any person who:

(a) Otherwise could have enrolled in the Foreclosure Mediation Program after December 31, 2016, or was mailed a notice of default and election to sell after December 2, 2016; and

(b) Received a notice of default required by NRS 107.080 before the effective date of this act. Such a person shall have until the date 30 days after the effective date of this act to enroll in the Foreclosure Mediation Program.

2. The amendatory provisions of sections 1 and 1.5 of this act apply only to a notice of default and election to sell which is recorded pursuant to NRS 107.080, as amended by section 1.5 of this act, on or after the effective date of this act.

Sec. 11. Sections 1.5, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of chapter 517, Statutes of Nevada 2015, at pages 3317, 3322, 3327, 3328, 3330, 3333 and 3334, are hereby repealed.

Sec. 12. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

Section 1.5 of chapter 517, Statutes of Nevada 2015, at page 3317:

Sec. 1.5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 106.210 ~~and~~ 107.085, ~~and 107.086,~~ if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment.

(b) In the case of any trust agreement which concerns owner-occupied housing, ~~as defined in NRS 107.086,~~ the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder

of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale. Except as otherwise provided in subparagraph (5), the affidavit required by this paragraph must state under the penalty of perjury the following information, which must be based on the direct, personal knowledge of the affiant or the personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135:

(1) The full name and business address of the current trustee or the current trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the current servicer of the obligation or debt secured by the deed of trust.

(2) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust or that the beneficiary or its successor in interest or the trustee is entitled to enforce the obligation or debt secured by the deed of trust. For the purposes of this subparagraph, if the obligation or debt is an instrument, as defined in subsection 2 of NRS 104.3103, a beneficiary or its successor in interest or the trustee is entitled to enforce the instrument if the beneficiary or its successor in interest or the trustee is:

(I) The holder of the instrument;

(II) A nonholder in possession of the instrument who has the rights of a holder; or

(III) A person not in possession of the instrument who is entitled to enforce the instrument pursuant to a court order issued under NRS 104.3309.

(3) That the beneficiary or its successor in interest, the servicer of the obligation or debt secured by the deed of trust or the trustee, or an attorney representing any of those persons, has sent to the obligor or borrower of the obligation or debt secured by the deed of trust a written statement of:

(I) The amount of payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement;

(II) The amount in default;

(III) The principal amount of the obligation or debt secured by the deed of trust;

(IV) The amount of accrued interest and late charges;

(V) A good faith estimate of all fees imposed in connection with the exercise of the power of sale; and

(VI) Contact information for obtaining the most current amounts due and the local or toll-free telephone number described in subparagraph (4).

(4) A local or toll-free telephone number that the obligor or borrower of the obligation or debt may call to receive the most current amounts due and a recitation of the information contained in the affidavit.

(5) The date and the recordation number or other unique designation of, and the name of each assignee under, each recorded assignment of the deed of trust. The information required to be stated in the affidavit pursuant to this subparagraph may be based on:

(I) The direct, personal knowledge of the affiant;

(II) The personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135;

(III) Information contained in the records of the recorder of the county in which the property is located; or

(IV) The title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS.

↪ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time-share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

(d) The beneficiary or its successor in interest or the servicer of the obligation or debt secured by the deed of trust has instructed the trustee to exercise the power of sale with respect to the property.

(e) Not less than 3 months have elapsed after the recording of the notice or, if the notice includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, not less than 60 days have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election

to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2;

(b) If the property is subject to the requirements of NRS 107.400 to 107.560, inclusive, contain the declaration required by subsection 6 of NRS 107.510;

(c) If, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, include the affidavit and certification required by subsection 6 of NRS 107.130; and

(d) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the applicable period specified in paragraph (d) of subsection 2 following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in a public place in the county where the property is situated;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS ~~107.086 and~~ 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 45 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 15 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 60 days after the date on which the person received actual notice of the sale.

7. If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection 2, 3 or 4, the court must award to the grantor or the person who holds title of record:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs,
➤ unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.

8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

9. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 9, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 9 and for reasonable attorney's fees and the costs of bringing the action.

11. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) ~~{A fee of \$45 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.~~

~~—(c)}~~ A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

12. The fees collected pursuant to ~~{paragraphs}~~ paragraph (a) ~~{and (b)}~~ of subsection 11 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund. ~~{for the Account for Foreclosure Mediation as prescribed pursuant to subsection 11.}~~ The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund. ~~{for the Account as prescribed in subsection 11.}~~

13. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell

shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 11.

14. As used in this section:

(a) *"Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.*

(b) "Residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this paragraph, "single family residence":

(1) Means a structure that is comprised of not more than four units.

(2) Does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

~~[(b)]~~ (c) "Trustee" means the trustee of record.

Section 2 of chapter 517, Statutes of Nevada 2015, at page 3322:

Sec. 2. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003, and, on the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(bb), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32; or

(b) The trust agreement concerns owner-occupied housing as defined in NRS ~~107.086~~ 107.080.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor or the person who holds the title of record a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor or the person who holds the title of record:

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor or the person who holds the title of record; or

(2) If the trust agreement concerns owner-occupied housing as defined in NRS ~~107.086~~ 107.080:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his or her place of residence or from his or her usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his or her place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and, except as otherwise provided in subsection 4, a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In not less than 60 days your home may be sold and you may be forced to move. For help, call:

Consumer Credit Counseling _____

The Attorney General _____

The Division of Mortgage Lending _____

The Division of Financial Institutions _____

Legal Services _____

Your Lender _____

Nevada Fair Housing Center _____

4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.

5. This section does not prohibit a judicial foreclosure.

6. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Section 3 of chapter 517, Statutes of Nevada 2015, at page 3327:

Sec. 3. NRS 107.095 is hereby amended to read as follows:

107.095 1. The notice of default required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice must be sent to the address of the trust property. Failure to give the notice, except as otherwise provided in subsection 3, releases the guarantor or surety from his or her obligation to the beneficiary, but does not affect the validity of a sale

conducted pursuant to NRS 107.080 or the obligation of any guarantor or surety to whom the notice was properly given.

2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in paragraph (a) of subsection 2 of NRS 107.080;

(2) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS ~~107.086~~, 107.080, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or

(3) Any extension of the applicable period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

Section 4 of chapter 517, Statutes of Nevada 2015, at page 3327:

Sec. 4. NRS 107.450 is hereby amended to read as follows:

107.450 "Residential mortgage loan" means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS ~~107.086~~, 107.080.

Section 5 of chapter 517, Statutes of Nevada 2015, at page 3327:

Sec. 5. NRS 107.460 is hereby amended to read as follows:

107.460 The provisions of NRS 107.400 to 107.560, inclusive, do not apply to a financial institution, as defined in NRS 660.045, that, during its immediately preceding annual reporting period, as established with its primary regulator, has foreclosed on 100 or fewer real properties located in this State which constitute owner-occupied housing, as defined in NRS ~~107.086~~, 107.080.

Section 6 of chapter 517, Statutes of Nevada 2015, at page 3327:

Sec. 6. NRS 107.480 is hereby amended to read as follows:

107.480 1. In addition to the requirements of NRS 107.085, ~~and 107.086~~, the exercise of a trustee's power of sale pursuant to NRS 107.080 with respect to a deed of trust securing a residential mortgage loan is subject to the provisions of NRS 107.400 to 107.560, inclusive.

2. In addition to the requirements of NRS 40.430 to 40.4639, inclusive, a civil action for a foreclosure sale pursuant to NRS 40.430

involving a failure to make a payment required by a residential mortgage loan is subject to the requirements of NRS 107.400 to 107.560, inclusive. Section 7 of chapter 517, Statutes of Nevada 2015, at page 3328:

Sec. 7. NRS 107.550 is hereby amended to read as follows:

107.550 1. A civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan must be dismissed without prejudice, any notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 must be rescinded, and any pending foreclosure sale must be cancelled, if:

(a) The borrower accepts a permanent foreclosure prevention alternative;

(b) A notice of sale is not recorded within 9 months after the notice of default and election to sell is recorded pursuant to subsection 2 of NRS 107.080; or

(c) A foreclosure sale is not conducted within 90 calendar days after a notice of sale is recorded pursuant to subsection 4 of NRS 107.080.

2. The periods specified in paragraphs (b) and (c) of subsection 1 are tolled:

(a) If a borrower has filed a case under 11 U.S.C. Chapter 7, 11, 12 or 13, until the bankruptcy court enters an order closing or dismissing the bankruptcy case or granting relief from a stay of foreclosure or trustee's sale;

(b) ~~If mediation pursuant to NRS 107.086 is required, until the date on which the Mediation Administrator, as defined in NRS 107.086, issues the certificate that mediation has been completed in the matter;~~

~~—(c) If [mediation pursuant to NRS 40.437 is required or if] a court orders participation in a settlement program, until the date on which the [mediation or] participation in a settlement program is terminated; or~~

~~[(d)]~~ (c) If a borrower has submitted an application for a foreclosure prevention alternative, until the date on which:

(1) A written offer for a foreclosure prevention alternative is submitted to the borrower;

(2) A written statement of the denial of the application has been submitted to the borrower pursuant to subsection 4 of NRS 107.530, and any appeal period pursuant to subsection 5 of NRS 107.530 has expired; or

(3) If the borrower has appealed the denial of an application for a foreclosure prevention alternative, a written offer for a foreclosure prevention alternative or a written denial of the appeal is submitted to the borrower.

3. If, pursuant to subsection 1, a civil action is dismissed, a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of

NRS 107.080 is rescinded, or any pending foreclosure sale is cancelled, the mortgagee or beneficiary of the deed of trust is thereupon restored to its former position and has the same rights as though an action for a judicial foreclosure had not been commenced or a notice of default and election to sell had not been recorded.

Section 8 of chapter 517, Statutes of Nevada 2015, at page 3328:

Sec. 8. NRS 2.125 is hereby amended to read as follows:

2.125 The Supreme Court may adopt rules providing for voluntary mediation with respect to ~~the~~:

~~—1. A homeowner who is not in default but is at risk of default.~~

~~—2. A~~ a small business whose commercial property is in default. If the Supreme Court adopts such rules, the Supreme Court shall consider:

~~{(a)}~~ 1. The goals and purposes of the mediation process;

~~{(b)}~~ 2. The necessity, efficiency and desirability of allowing mediation for the various types of commercial property; and

~~{(c)}~~ 3. Any other factor that is relevant in determining whether allowing mediation under the circumstances is in the best interests of the residents, businesses and governmental entities in this State.

Section 9 of chapter 517, Statutes of Nevada 2015, at page 3330:

Sec. 9. Section 2 of Senate Bill 306 of this session is hereby amended to read as follows:

Sec. 2. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 5 ~~or~~ ~~{7}~~ 6, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the total amount of the deficiency in payment, with a separate statement of:

(I) The amount of the association's lien that is prior to the first security interest on the unit pursuant to subsection 3 of NRS 116.3116 as of the date of the notice;

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

(III) The amount of the lien described in sub-subparagraph (I) that is attributable to amounts described in NRS 116.310312 as of the date of the notice; and

(IV) The amount of the lien described in sub-subparagraph (I) that is attributable to the costs of enforcing the association's lien as of the date of the notice.

(3) State that:

(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and

(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.

(4) State the name and address of the person authorized by the association to enforce the lien by sale.

(5) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date of

sale, failed to pay the assessments and other sums that are due to the association in accordance with subsection 1 of NRS 116.3116.

(e) The association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, an affidavit which states, based on the direct, personal knowledge of the affiant, the personal knowledge which the affiant acquired by a review of a trustee sale guarantee or a similar product or the personal knowledge which the affiant acquired by a review of the business records of the association or other person conducting the sale, which business records must meet the standards set forth in NRS 51.135, the following:

(1) The name of each holder of a security interest on the unit to which the notice of default and election to sell and the notice of sale was mailed, as required by subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635; and

(2) The address at which the notices were mailed to each such holder of a security interest.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days described in paragraph (c) of subsection 1 begins on the first day following:

(a) The date on which the notice of default and election to sell is recorded; or

(b) The date on which a copy of the notice of default and election to sell is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

➡ whichever date occurs later.

4. An association may not mail to a unit's owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless:

(a) Not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner:

(1) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(2) A proposed repayment plan; and

(3) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing; and

(b) Within 30 days after the date on which the information described in paragraph (a) is mailed, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board. If the unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the information described in paragraph (a) is mailed and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date, the association may take any lawful action pursuant to subsection 1 to enforce its lien.

5. The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of 116.311635.

6. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

~~{7. The association may not foreclose a lien by sale if the association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:~~

~~— (a) The trustee of record has recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (c) of subsection 2 of NRS 107.086; or~~

~~— (b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 10 of NRS 107.086.}~~

Section 10 of chapter 517, Statutes of Nevada 2015, at page 3333:

Sec. 10. Section 8.5 of Senate Bill 306 of this session is hereby amended to read as follows:

Sec. 8.5. Chapter 657 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A bank, credit union, savings bank, savings and loan association, thrift company or other financial institution which is licensed, registered or otherwise authorized to do business in this State and which is the mortgagee or beneficiary of a deed of trust

under a residential mortgage loan shall provide to the Division of Financial Institutions the name, street address and any other contact information of a person to whom ~~it~~:

~~—(a) A borrower or a representative of a borrower must send any document, record or notification necessary to facilitate a mediation conducted pursuant to NRS 40.437 or 107.086.~~

~~—(b) A~~ a unit-owners' association must send any notice required to be given pursuant to NRS 116.3116 to 116.3118, inclusive.

2. The Division of Financial Institutions shall maintain on its Internet website the information provided to the Division pursuant to subsection 1 and provide a prominent display of, or a link to, the information described in subsection 1, on the home page of its Internet website.

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

~~—(a) "Borrower" means a person who is a mortgagor or grantor of a deed of trust under a residential mortgage loan.~~

~~—(b) "Residential,"~~ "residential mortgage loan" means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS ~~107.086~~ 107.080.

Section 11 of chapter 517, Statutes of Nevada 2015, at page 3334:

Sec. 11. Any balance remaining in the Account for Foreclosure Mediation created by NRS 107.080 that has not been committed for expenditure before June 30, 2017, must be reverted to the State General Fund.

Section 12 of chapter 517, Statutes of Nevada 2015, at page 3334:

Sec. 12. NRS 40.437 and 107.086 are hereby repealed.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 924 to Senate Bill No. 490 increases the notice of default fee from \$45 to \$95 for deposit in the Account for Foreclosure Mediation Assistance. The amendment clarifies that money in the Account may only be expended for the purposes of supporting a program of foreclosure mediation and to develop and maintain an Internet portal for a program of foreclosure mediation. Additionally, the amendment decreases the total mediation fee from \$600 as originally proposed in the bill as introduced, to \$500 for mediation services with \$100 of the \$500 collected remitted by the applicable county treasurer to the State Controller for credit to the Account for Foreclosure Mediation Assistance.

Amendment adopted.

Bill read third time.

Remarks by Senators Denis, Harris and Ford.

SENATOR DENIS:

Senate Bill No. 490 revises the administration of the Foreclosure Mediation Program from the Nevada Supreme Court to Home Means Nevada, Inc. and changes the existing Account for Foreclosure Mediation administered by the Nevada Supreme Court to the Account for Foreclosure Mediation Assistance. The bill requires the Account for Foreclosure Mediation Assistance to be administered by the Interim Finance Committee. Funds in the Account must be used to support a program of foreclosure mediation and to develop and maintain an Internet portal for the program.

Senate Bill No. 490 increases the Notice of Default filing fee from \$45 to \$95 to be paid by the trustee to the county treasurer for deposit to the Account for Foreclosure Mediation Assistance. Additionally, the bill requires a \$25 fee be paid to the district court for the filing of a petition by the trustee to participate in mediation and increases the mediation fee from \$400 to \$500 to be paid equally by the participants of mediation, of which \$100 shall be deposited to the Account for Foreclosure Mediation Assistance. Further, the bill requires the State Controller to transfer all money remaining in the Account for Foreclosure Mediation to the newly established Account for Foreclosure Mediation Assistance.

In revising the administration of the Foreclosure Mediation program from the Supreme Court of Nevada to Home Means Nevada, Inc., Senate Bill No. 490 authorizes Home Means Nevada, Inc. to request a Contingency Account allocation from the Legislature's Interim Finance Committee in the event that the Interim Finance Committee determines that the money in the Account for Foreclosure Mediation Assistance is insufficient to support the mediation process contained in NRS 107. Finally, the bill eliminates the existing June 30, 2017, expiration date of the Foreclosure Mediation Program as established by Senate Bill 512 of the 2015 Legislature and makes the program permanent.

SENATOR HARRIS:

The foreclosure mediation bill you have in front of you is the work of an eclectic group of bipartisan stakeholders who worked diligently throughout the Interim. The bill has all of the protections homeowners have enjoyed for the past several years through the Foreclosure Mediation Program and adds new benefits as a result of this new, streamlined process with the online portal we have contemplated. Giving district court judges jurisdiction to oversee foreclosure mediation will result in fewer frustrations for homeowners and improve the process for everyone by allowing for quicker resolutions. Nevada is still one of the top states in the Nation for foreclosures, and we still have some housing security issues. The ability for a homeowner to sit down with their lender for four hours and work out solutions for housing stability is critical. I urge your support.

SENATOR FORD:

This bill is the quintessential example of compromise legislation.

Roll call on Senate Bill No. 490:

YEAS—21.

NAYS—None.

Senate Bill No. 490 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 517.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 657.

SUMMARY—Establishes the Nevada State Infrastructure Bank.
(BDR 35-602)

AN ACT relating to state financial administration; establishing the Nevada State Infrastructure Bank; providing for governance of the Bank by a Board of Directors; establishing the powers and duties of the Board; providing for administration of the Bank by an Executive Director; establishing the powers and duties of the Executive Director; authorizing the Bank to perform certain acts in connection with the financing of certain transportation facilities and utility infrastructure; authorizing certain governmental entities to perform

certain acts in connection with certain transportation facilities and utility infrastructure; providing civil immunity for certain persons for certain official actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-36 of this bill establish the Nevada State Infrastructure Bank. The purpose of the Bank is to provide loans and other financial assistance to various units of State and local government for the development, construction, improvement, operation and ownership of certain transportation facilities and utility infrastructure. Section 19 creates the Bank within the Department of Transportation and provides for its governance by a Board of Directors. Section 20 establishes certain powers and duties of the Board. These powers include the authority to accept money appropriated by the Legislature, made available by the Federal Government and provided by certain other sources. Section 20 further authorizes the Bank to issue bonds or other securities to raise money to carry out its statutory purposes and powers. Section 21 provides for the appointment by the Governor of an Executive Director to administer, manage and conduct the affairs of the Bank and establishes the powers and duties of the Executive Director. Section 22 creates the Nevada State Infrastructure Bank Fund to be administered by the Board and used exclusively to capitalize and carry on the business of the Bank.

Section 23 establishes certain procedures relating to: (1) applications for a loan or other financial assistance from the Bank in connection with a project to develop, construct, improve, operate or own a transportation facility or utility infrastructure; (2) determination by the Executive Director of eligible projects; and (3) selection by the Board of Directors of projects that qualify to obtain such a loan or assistance. Section 24 requires a borrower whose project is qualified to receive a loan or other financial assistance to enter into a financing agreement with the Bank and, in the case of a loan, to issue some kind of security to the Bank that evidences the borrower's obligation to repay the loan.

Section 25 authorizes the Bank to provide or arrange or enter into an agreement for insurance or reinsurance in connection with a loan or satisfaction of a related obligation made by the Bank. Section 26 authorizes the Bank to provide security for any revenue bonds issued by the Bank.

Section 27 provides that any debt or obligation issued by the Bank is not a debt, liability or obligation of this State or of any political subdivision thereof, or a pledge of the faith and credit of this State or a political subdivision, other than the Bank itself.

Section 28 provides that if a borrower who has received a loan from the Bank fails to make a payment of any money owed to the Bank, the Bank may, under certain circumstances, require other state agencies that are in possession of State or other money that is allotted or appropriated to the borrower to withhold that money from that borrower and apply an amount necessary to pay the amount due.

Section 29 provides a grant of immunity from civil liability to the officers and employees of the Bank for certain official acts under certain circumstances. Section 30 exempts the Bank from all notice, publication, hearing and other procedural requirements that may otherwise apply to its actions. Section 31 exempts the property of the Bank and its income from taxation, and section 32 exempts the bonds and other securities issued by the Bank from most forms of taxation.

Section 33 provides that any authority given to a qualified borrower to issue bonds by this bill is supplemental to, and not in lieu of, any existing authority to issue bonds.

Section 34 also provides that the provisions of this bill are intended to supplement, not supplant, other existing laws concerning the development, construction, improvement, operation and ownership of transportation facilities and utility infrastructure and the issuance of bonds and other securities by this State and political subdivisions thereof. However, section 34 also provides that if there is a conflict between those laws and this bill, the provisions of this bill control.

Section 35 requires the Board of Directors of the Bank to submit an annual report concerning its operations to the Governor and the Legislature.

Section 36 authorizes the Department of Transportation, to the extent that money is available for that purpose, to provide technical advice, support and assistance to the Bank.

Sections 37-42 of this bill make various conforming changes.

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

Section 1. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 36, inclusive, of this act.

Sec. 2. *As used in sections 2 to 36, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 18.5, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 3. *"Bank" means the Nevada State Infrastructure Bank created by section 19 of this act.*

Sec. 4. *"Board of Directors" means the Board of Directors of the Bank established pursuant to section 19 of this act.*

Sec. 5. *"Eligible costs" means, as applied to a qualified project to be financed from:*

1. *The federal highway account, the costs that are permitted under applicable federal laws, requirements, procedures and guidelines in regard to establishing, operating and providing assistance from the Bank.*

2. *The state and local highway account, the costs necessary for the qualified project, including, without limitation, the costs of preliminary engineering, traffic and revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, facilities and other costs necessary for the qualified project.*

3. *The federal utility infrastructure account, the costs necessary for the qualified projects, including, without limitation, the costs of preliminary engineering studies, environmental studies, property right acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities and other nonoperating costs necessary for the qualified project.*

4. *A federal nonhighway account, the costs that are permitted under applicable federal laws, requirements, procedures and guidelines which may include, without limitation, the costs of preliminary engineering, traffic and revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities and other nonoperating costs necessary for the qualified project.*

5. *A state and local nonhighway account, the costs necessary for the qualified project, including, without limitation, the costs of preliminary engineering, traffic and revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities and other nonoperating costs necessary for the qualified project.*

6. *The state and local utility infrastructure account, the costs necessary for the qualified project, including, without limitation, the costs of preliminary engineering studies, environmental studies, property right acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities and other nonoperating costs necessary for the qualified project.*

Sec. 6. *"Eligible project" means the development, construction, repair, improvement, operation or ownership of a transportation facility or utility infrastructure.*

Sec. 7. *"Executive Director" means the Executive Director of the Bank appointed pursuant to section 21 of this act.*

Sec. 8. *"Federal highway account," "federal nonhighway account" and "federal utility infrastructure account" mean the federal highway account, any federal nonhighway account and the federal utility infrastructure account established pursuant to section 22 of this act.*

Sec. 9. 1. *"Financing agreement" means any agreement entered into between the Bank and a qualified borrower pertaining to a loan or other financial assistance for a qualified project and may include nonfinancial provisions relating to the qualified project, including, without limitation, terms and conditions relating to the regulation and supervision of a qualified project.*

2. *The term includes, without limitation, a loan agreement, a trust indenture, a security agreement, a reimbursement agreement, a guarantee agreement, a bond or note, and an ordinance, resolution or similar instrument.*

Sec. 10. *"Governmental unit" means:*

1. *The State of Nevada, including, without limitation, any board, commission, agency, department, division or instrumentality thereof;*

2. A political subdivision of the State of Nevada, including, without limitation, a county, city, town, school district, general or local improvement district or a combination of two or more of those entities acting jointly, including, without limitation, in conjunction with a regional transportation commission; and

3. A ~~public or private~~ utility.

Sec. 11. "Loan" means any form of direct financial assistance that is provided by the Bank to a qualified borrower to defray all or part of the anticipated or actual costs of a qualified project and is required to be repaid by the borrower over a period of time.

Sec. 12. "Loan obligation" means a bond, note or other evidence of a qualified borrower's obligation to repay a loan given by the Bank.

Sec. 13. "Other financial assistance" means any use of money by the Bank for the benefit of a qualified borrower, including, without limitation, a grant, contribution, credit enhancement, capital or debt reserve for bonds or other debt instrument financing, an interest rate subsidy, letter of credit or other credit instrument, security for a bond or other debt financing instrument and other lawful forms of financing and methods of leveraging funds that are approved by the Board of Directors and, in the case of money made available to the State by the Federal Government, as allowed by applicable federal law.

Sec. 14. "Project revenue" means any rate, rent, fee, assessment, charge or other receipt derived or to be derived by a qualified borrower from a qualified project or made available from a special source and, if so provided in the applicable financing agreement, derived from any system of which the qualified project is a part or from any other revenue-producing facility under the ownership or control of the qualified borrower, including, without limitation, the proceeds of a grant, gift, appropriation and loan, including, without limitation the proceeds of a loan made by the Bank, investment earnings, payments to a reserve for capital or current expenses, proceeds of insurance or condemnation and proceeds from the sale or other disposition of property and from any other special source as may be provided by the qualified borrower.

Sec. 15. "Qualified borrower" means a governmental unit, or an entity established by agreement between a governmental unit and a private entity, that is authorized to develop, construct, improve, operate or own a qualified project.

Sec. 16. "Qualified project" means an eligible project that has been selected by the Bank to receive a loan or other financial assistance.

Sec. 17. "State and local highway account," "state and local nonhighway account" and "state and local utility infrastructure account" mean the state and local highway account, any state and local nonhighway account and the state and local utility infrastructure account established pursuant to section 22 of this act.

Sec. 18. "Transportation facility" means any existing, enhanced, upgraded or new facility used or useful for the safe transport of persons,

information or goods by one or more modes of transport, including, without limitation, a road, railroad, bridge, tunnel, overpass, mass transit, light rail, commuter rail, conduit, ferry, boat, vessel, intermodal or multimodal system, a system using autonomous technology, as defined in NRS 482A.025, and any rights-of-way necessary for the facility. The term includes:

1. Related or ancillary facilities used or useful for providing, operating, maintaining or generating revenue for a transportation facility, including, without limitation, administrative buildings, structures, rest areas, maintenance yards and buildings, rail yards, rolling stock, storage facilities, ports of entry, vehicles, control systems, communication systems, information systems, energy systems, parking facilities and other related equipment or property needed or used to support the transportation facility or the transportation of persons, information or goods; and

2. All improvements, including equipment, necessary to the full utilization of a transportation facility, including, without limitation, site preparation, roads and streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for railroad, automotive and air transportation and transportation facilities incidental to the project.

Sec. 18.3. "Utility" has the meaning ascribed to it in NRS 408.407.

Sec. 18.5. "Utility infrastructure" means any infrastructure ~~located off site from an existing utility~~ which allows for the connection of the transmission or distribution system of a utility to ~~the boundary of a~~ distribution facility installed by a master-planned industrial or business park in conformance with the tariffs of the utility and includes, without limitation, the engineering and construction of the infrastructure.

Sec. 19. 1. The Nevada State Infrastructure Bank is hereby created within the Department.

2. The purpose of the Bank is to provide loans and other financial assistance to various units of State and local government for the development, construction, improvement, operation and ownership of transportation facilities and utility infrastructure.

3. The Bank is administered by a Board of Directors consisting of seven members as follows:

(a) The Director of the Department of Business and Industry or his or her designee;

(b) The State Treasurer or his or her designee;

(c) The Director of the Department of Transportation or his or her designee;

(d) The Executive Director of the Office of Economic Development;

(e) The Administrator of the State Public Works Division of the Department of Administration; and

(f) Two representatives of the general public, appointed by the Governor, at least one of whom must reside in a county whose population is 700,000 or more.

↪ A person designated or appointed to serve as a member of the Board of Directors pursuant to this subsection serves at the pleasure of the officer who designated or appointed him or her.

4. The Board shall elect annually, from among its members, a Chair and Vice Chair.

5. Four members of the Board of Directors constitute a quorum for the transaction of business, and the affirmative vote of at least four members of the Board of Directors is required to take action.

6. The members of the Board of Directors are public officers and are subject to all applicable provisions of law, including, without limitation, the provisions of chapter 281A of NRS.

7. A meeting of the Board of Directors must be conducted in accordance with the provisions of chapter 241 of NRS.

~~7.7~~ 8. Except as otherwise provided in this subsection, members of the Board of Directors serve without compensation, except that each member of the Board of Directors is entitled, while engaged in the business of the Board of Directors, to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses provided to a member of the Board of Directors who is an officer or employee of this State or a political subdivision of this State must be paid by the state agency or political subdivision that employs him or her. Each member of the Board of Directors who is not an officer or employee of this State or a political subdivision of this State is entitled to receive \$100 for each full day of attending a meeting of the Board of Directors.

~~8.7~~ 9. Each member of the Board of Directors who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that the member may prepare for and attend meetings of the Board of Directors and perform any work necessary to carry out the duties of the Board of Directors in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Board of Directors to make up the time that he or she is absent from work to carry out his or her duties as a member of the Board of Directors or to use annual vacation or compensatory time for the absence.

Sec. 20. 1. In administering the affairs of the Bank, the Board of Directors has all the powers necessary, useful or appropriate to fund, operate and administer the Bank and to perform its other functions, including, without limitation, the power to:

- (a) Have perpetual succession;
- (b) Make, and from time to time amend and repeal bylaws, rules and regulations to carry into effect the powers and purposes of the Bank;
- (c) Sue and be sued in the name of the Bank;
- (d) Have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the Bank;

(e) *Make loans to qualified borrowers to finance the eligible costs of qualified projects and to acquire, hold and sell loan obligations at prices and in a manner as the Board of Directors determines advisable;*

(f) *Provide qualified borrowers with other financial assistance necessary to defray all or part of the eligible costs of a qualified project;*

(g) *Enter into contracts, arrangements and agreements with qualified borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to carry out its statutory purposes and powers;*

(h) *Enter into agreements with a department, agency or instrumentality of the United States or of this State or another state for the purpose of providing for the financing of qualified projects;*

(i) *Establish:*

(1) *Policies and procedures to govern the:*

(I) *Selection of qualified projects; and*

(II) *Issuance and administration of loans and other financial assistance provided by the Bank; and*

(2) *Fiscal controls and accounting procedures to ensure proper accounting and reporting by the Bank and eligible borrowers;*

(j) *Acquire by purchase, lease, donation or other lawful means property and other assets of every kind and character or any interest in such property or assets and sell, convey, pledge, lease, exchange, transfer and dispose of all or any part of such property and assets;*

(k) *Procure insurance, guarantees, letters of credit and other forms of collateral or security or credit support for the payment of bonds or other securities issued by the Bank and the payment of premiums or fees on such insurance, guarantees, letters of credit and other forms of collateral or security or credit support;*

(l) *Collect or authorize the trustee under any trust indenture that secures any bonds or other securities issued by the Bank to collect amounts due from a qualified borrower under any loan obligation owned by the Bank, including, without limitation, taking any lawful action required to obtain payment of any sums in default;*

(m) *Unless restricted by the terms of an agreement with holders of bonds or other securities issued by the Bank, consent to any modification of the terms of any loan obligations owned by Bank, including, without limitation, the rate of interest, period of repayment and payment of any installment of principal or interest;*

(n) *Borrow money through the issuance of bonds and other securities as provided in sections 2 to 36, inclusive, of this act;*

(o) *Incur expenses to obtain accounting, management, legal, financial consulting and other professional services necessary to the operations of the Bank;*

(p) *Incur expenses for the costs of administering the operations of the Bank;*

(q) Establish advisory committees, which may include persons from the private sector with banking and financial expertise;

(r) Procure insurance against losses in connection with the Bank's property, assets or activities, including, without limitation, insurance against liability for any act of the Bank or of its employees or agents, or establish cash reserves to enable the Bank to act as a self-insurer against such losses;

(s) Impose and collect fees and charges in connection with a loan or other financial assistance provided by the Bank;

(t) Apply for, receive and accept from any source, aid, grants or contributions of money, property, labor or other things of value to be used to carry out the statutory purposes and powers of the Bank;

(u) Enter into contracts or agreements for the servicing and processing of financial agreements;

(v) Accept and hold, with or without payment of interest, money deposited with the Bank;

(w) Request technical advice, support and assistance from the Department of Transportation; and

(x) Do all other things necessary or convenient to exercise any power granted or reasonably implied by sections 2 to 36, inclusive, of this act.

2. Except as otherwise provided in sections 2 to 36, inclusive, of this act, the Bank may exercise any fiscal power granted to the Bank in sections 2 to 36, inclusive, of this act, without the review or approval of any other department, division or agency of the State or political subdivision thereof.

3. In exercising the powers and performing the functions set forth in sections 2 to 36, inclusive, of this act, the members of the Board of Directors:

(a) Must act in a commercially reasonable manner and in the interests of this State. For the purposes of this paragraph, the interests of this State include, without limitation, the public welfare and economy of this State and the long-term as well as the short-term interests of this State.

(b) May, unless a member of the Board has knowledge concerning a matter in question that would cause reliance thereon to be unwarranted, rely on information, opinions, reports, books of account or statements, including financial statements and other financial data, that are prepared or presented by:

(1) One or more members of the Board of Directors, officers or employees of the Bank reasonably believed to be reliable and competent in the matters prepared or presented;

(2) Counsel, public accountants, financial advisers, valuation advisers, investment bankers, engineers, architects or other persons as to matters reasonably believed to be within the preparer's or presenter's professional or expert competence; or

(3) A committee on which the director or officer relying thereon does not serve, as to matters within the committee's designated authority and matters on which the committee is reasonably believed to merit confidence.

4. *This section does not authorize the Bank to be or conduct business as a:*

(a) Bank or trust company within the jurisdiction or under the control of an agency of United States or this State; or

(b) Bank, banker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange or securities dealers' law of the United States or of this State.

~~4.4~~ 5. *The Bank must, before accepting a deposit from any person or governmental unit, provide a notice to the depositor stating that the deposit is not insured by the Federal Deposit Insurance Corporation.*

~~5.4~~ 6. *For the purposes of this section, the provisions of titles 55 and 56 of NRS do not apply to the Bank.*

Sec. 21. 1. *The Governor shall appoint an Executive Director of the Bank. The Executive Director is in the unclassified service of the State and serves at the pleasure of the Governor.*

2. *The Executive Director shall administer, manage and conduct the business and affairs of the Bank subject to the direction of the Board of Directors, any conditions that the Board of Directors may from time to time prescribe or as delegated by the Board of Directors. Except as otherwise provided in this subsection, the Executive Director may exercise any power, function or duty conferred by law on the Bank in connection with the administration, management and conduct of the business and affairs of the Bank, including, without limitation:*

(a) Hiring such employees in either the classified or unclassified service of the State as are necessary to carry out the statutory purposes and powers of the Bank;

(b) Entering into contracts concerning investments, guarantees or credit enhancements;

(c) Establishing procedures, guidelines, criteria, terms, conditions or other requirements of any contract, bond, loan, grant or other program in order to carry out the intents and purposes of the Bank in authorizing the contract, bond, loan, grant or other program;

(d) Declining to guarantee any risk or to enter into any contract;

(e) Reinsuring any risk or any part of any risk, as provided in section 25 of this act;

(f) Making rules for payments through the Bank and determining to whom and through whom the payments are to be made;

(g) Investing and reinvesting any money belonging to the Bank;

(h) Entering into any contract or agreement, executing any instrument, conducting all business and affairs and performing any act necessary or convenient to carrying out the statutory purposes and powers of the Bank; and

(i) Executing any instrument or performing any act necessary or convenient to carry out his or her duties pursuant to sections 2 to 36, inclusive, of this act.

3. *The Executive Director and any employees hired pursuant to this section must be paid by the Bank from money allocated to the Bank and*

appropriated or authorized by the Legislature or the Interim Finance Committee.

Sec. 22. 1. *The Nevada State Infrastructure Bank Fund is hereby created as an enterprise fund. The Fund is a continuing fund without reversion.*

2. *The Fund is administered by the Board of Directors.*

3. *The Bank may establish accounts and subaccounts within the Fund, but must establish:*

- (a) A federal highway account;*
- (b) One or more federal nonhighway accounts;*
- (c) A state and local highway account;*
- (d) One or more state and local nonhighway accounts;*
- (e) A federal utility infrastructure account; and*
- (f) A state and local utility infrastructure account.*

4. *Except as otherwise provided in subsection 7, all money received by the Bank pursuant to sections 2 to 36, inclusive, of this act must be deposited in the Fund.*

5. *The Bank may accept for deposit into the Fund:*

- (a) Any money appropriated by the Legislature;*
- (b) Federal funds made available to the State;*
- (c) Gifts, grants, donations and contributions from a governmental unit, private entity and any other source;*
- (d) Any money paid or credited to the Bank, by contract or otherwise, including, without limitation:*

(1) Payment of principal and interest on a loan or other financial assistance provided to a qualified borrower by the Bank; and

(2) Interest earned from the investment or reinvestment of the Bank's money;

(e) Proceeds from the issuance of bonds or other securities pursuant to section 20 of this act; and

(f) Money from any other lawful source that is made available to the Bank and is not already dedicated for another purpose.

6. *The Bank shall comply with all applicable federal law governing the use of federal funds, including, without limitation:*

- (a) Any conditions or limitations on expenditures;*
- (b) Reporting; and*
- (c) The commingling of federal funds.*

7. *Earnings on balances in the federal accounts must be credited and invested in accordance with federal law. Earnings on state and local accounts must be deposited in the Fund to the credit of the respective state and local highway account, state and local nonhighway account and state and local utility infrastructure account that generates the earnings.*

8. *Money in the Fund may be used only:*

- (a) For the capitalization of the Bank; and*
- (b) To carry out the statutory purposes and powers of the Bank.*

9. A local government may use money from any source that is made available to the local government for the purposes of developing, constructing, improving, operating or owning a transportation facility or utility infrastructure or any other purpose set forth in sections 2 to 36, inclusive, of this act, to make a gift, grant, donation or contribution to the Bank or to satisfy any obligation owed by the local government to the Bank, including, without limitation, payments of principal and interest.

Sec. 23. 1. A governmental unit, or an entity established by agreement between a governmental unit and a private entity, that wishes to obtain a loan or other financial assistance from the Bank to develop, construct, improve, operate or own an eligible project must apply to the Bank in the manner prescribed by the Bank.

2. The Executive Director shall:

(a) Review each application and determine whether the transportation facility or utility infrastructure described in the application is an eligible project; and

(b) As requested by the Board of Directors, submit information to the Board of Directors concerning any eligible project.

3. The Board of Directors shall, from time to time, designate qualified projects from among the eligible projects. The Board of Directors may give preference to an eligible project that has demonstrated local financial support.

4. The Bank may provide a loan and other financial assistance to a qualified borrower to pay for all or part of the eligible costs of a qualified project. The term of the loan or other financial assistance may not exceed the anticipated useful life of the project. A loan or other financial assistance may be provided in anticipation of reimbursement for or direct payment of all or part of the eligible costs of a qualified project.

5. The Bank shall determine the form and content of loan applications, financing agreements and loan obligations, including, without limitation:

(a) The period for repayment and the rate or rates of interest on a loan; and

(b) Any nonfinancial provisions included in a financing statement or loan obligation, including, without limitation, terms and conditions relating to the regulation and supervision of a qualified project.

➤ Such form and content must substantially conform with the documents typically used for such transactions.

6. The terms and conditions set forth in a financing agreement or loan obligation for a loan or other financial assistance provided by the Bank with money from a federal account must comply with all applicable federal requirements.

Sec. 24. 1. A qualified borrower that wishes to obtain a loan or other financial assistance from the Bank must enter into a financing agreement with the Bank and may be required to issue a loan obligation to the Bank. Except as otherwise provided by specific statute, a qualified borrower entering into a financing agreement with the Bank or issuing a loan obligation to the Bank may perform any act, take any action, adopt any proceedings and make and

carry out any contract or agreement with the Bank as may be agreed to by the Bank and the qualified borrower for carrying out the purposes contemplated by sections 2 to 36, inclusive, of this act.

2. *A qualified borrower may, in addition to any authorization set forth in this section, use any authorization granted by any other statute that permits the qualified borrower to borrow money and issue obligations in obtaining a loan or other financial assistance from the Bank to the extent determined necessary or useful by the qualified borrower in connection with any financing agreement and the issuance, securing or sale of a loan obligation to the Bank.*

3. *A qualified borrower may:*

(a) *Receive, apply, pledge, assign and grant security interests in its project revenues to secure its obligations as provided in sections 2 to 36, inclusive, of this act; and*

(b) *Fix, revise, charge and collect fees, rates, rents, assessments and other charges of general or special application for the operation or services of a qualified project, the system of which it is a part and any other revenue-producing facilities from which the qualified borrower derives project revenues to meet its obligations under a financing agreement or to otherwise provide for the development, construction, improvement, operation or ownership of a qualified project.*

Sec. 25. 1. *The Bank may provide insurance or reinsurance for loans or portions thereof made by the Bank to finance a qualified project, or for their debt service, including, without limitation, amounts payable as premiums of penalties in the event of mandatory or optional prepayment, and for reserves, or portions thereof, or the yield therefrom, established to secure bonds or other securities issued to fund those loans or reserves.*

2. *The Bank may:*

(a) *Arrange an agreement for insurance or reinsurance with a user, mortgagor, lending institution, insurer and any other entity authorized to arrange such agreements in this State; and*

(b) *Enter into an agreement for insurance or reinsurance with any authorized insurer to reinsure or insure those risks in this State.*

3. *The Bank may fix a rate or rates of premium for insurance or reinsurance. The rates are not required to be uniform and may reflect any risk and classification of risk that the Bank determines to be reasonable.*

4. *The Bank may exercise any other power that is necessary or incidental to insurance, reinsurance and related matters.*

5. *The Bank shall make reasonable provisions for the security of loans made by the Bank, and any insurance, reinsurance and other financing arrangements negotiated by the Bank.*

6. *Any insurance or reinsurance provided by the Bank does not constitute a debt or pledge of the faith and credit of the State or any subdivision of the State.*

7. *For the purposes of this section, the provisions of title 57 of NRS do not apply to the Bank.*

Sec. 26. *The Bank may provide security for any issue of revenue bonds by the Bank through any commonly-accepted financial instrument, including, without limitation:*

- 1. A deed of trust on the resources, facilities and revenues of one or more projects;*
- 2. A credit enhancement, including, but not limited to, a letter of credit, bond insurance or surety bond provided by a private financial institution; and*
- 3. Insurance, reinsurance or a guarantee provided by the Bank itself.*

Sec. 27. *1. Any obligation to a third person made by the Bank, including, without limitation, a bond or other security issued by the Bank pursuant to section 20 of this act and any insurance, reinsurance or reserve provided by the Bank pursuant to section 25 of this act:*

(a) Does not constitute a debt, liability or obligation of this State or of any political subdivision thereof, or a pledge of the faith and credit of this State or of any political subdivision thereof, but is payable solely from the revenues or assets of the Bank; and

(b) Must contain on the face thereof a statement to the effect that the Bank is not obligated to pay the obligation or any interest thereon except from the revenues or assets, if any, pledged therefor and that neither the faith and credit nor the taxing power of this State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on the obligation.

2. This section does not prohibit the Bank from:

(a) Pledging the full faith and credit of the Bank for the satisfaction of any obligation to a third person made by the Bank; or

(b) Issuing a bond guarantee or credit enhancement for bonds issued by a qualified borrower.

3. The Bank shall not act as a surety or guarantor for a private utility or any other private entity including, without limitation, an association, company or corporation, and the provisions of sections 2 to 36, inclusive, of this act, must be construed to deem the Bank to be such a surety or guarantor.

Sec. 28. *1. Except as otherwise provided in this section, if a qualified borrower that has obtained a loan or other financial assistance from the Bank fails to remit in full any amount due to the Bank on the date the amount is due under the terms of any note or other loan obligation given to the Bank by the qualified borrower, the Bank shall notify the appropriate state agencies or officers, including, without limitation, the State Controller, who shall withhold all or a portion of any state money or other money administered by the State and its agencies, boards and instrumentalities that is allotted or appropriated to the qualified borrower and apply an amount necessary to the payment of the amount due.*

2. This section does not authorize the State or an agency, board or instrumentality thereof, or the State Controller to withhold any money allocated or appropriated to a qualified borrower if to do so would violate the terms of:

(a) An appropriation by the Legislature;

- (b) Any federal law;
- (c) A contract to which the State is a party;
- (d) A contract to which a governmental unit or a qualified borrower is a party; or
- (e) A judgment of a court that is binding on the State.

Sec. 29. *The Board of Directors and any member thereof, and any officer, employee, agent or committee member is not liable in a civil action for any act performed on behalf of the Bank in good faith and within the scope of their duties or the exercise of their authority pursuant to sections 2 to 36, inclusive, of this act.*

Sec. 30. *Except as otherwise provided in sections 2 to 36, inclusive, of this act, and notwithstanding any other provision of law, the Bank is not required to provide any notice or publication or to conduct any hearing or other proceeding before performing any act authorized in sections 2 to 36, inclusive, of this act.*

Sec. 31. *The Bank is an instrumentality of this State, and its property and income are exempt from all taxation by this State and any political subdivision thereof.*

Sec. 32. 1. *Except as otherwise provided in subsection 2, bonds and other securities issued by the Bank pursuant to the provisions of sections 2 to 36, inclusive, of this act, their transfer and the income therefrom must forever be and remain free and exempt from taxation by this State or any subdivision thereof.*

2. *The provisions of subsection 1 do not apply to the tax on estates imposed pursuant to the provisions of chapter 375A of NRS or the tax on generation-skipping transfers imposed pursuant to the provisions of chapter 375B of NRS.*

Sec. 33. *Notwithstanding any provision of sections 2 to 36, inclusive, of this act to the contrary, this act is supplemental to, and not in lieu of, the right of any qualified borrower to issue general obligation bonds or other bonds that it is otherwise lawfully authorized to issue.*

Sec. 34. *To the extent possible, the provisions of sections 2 to 36, inclusive, of this act are intended to supplement other statutory provisions governing the development, construction, improvement, operation and ownership of transportation facilities and utility infrastructure and the issuance of bonds and other securities by this State and political subdivisions thereof, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of sections 2 to 36, inclusive, of this act. If there is a conflict between such other provisions and the provisions of sections 2 to 36, inclusive, of this act, the provisions of sections 2 to 36, inclusive, of this act control.*

Sec. 35. *The Board of Directors shall, not later than 90 days after the end of each fiscal year:*

1. *Prepare a report on the operations of the Bank during that year; and*
2. *Submit the report prepared pursuant to subsection 1 to:*

(a) *The Governor; and*

(b) *The Director of the Legislative Counsel Bureau for transmittal to:*

(1) *If the report is prepared in an even-numbered year, the next regular session of the Legislature; or*

(2) *If the report is prepared in an odd-numbered year, the Legislative Commission.*

Sec. 36. *The Department of Transportation may, to the extent that money is available for that purpose, provide technical advice, support and assistance to the Bank.*

Sec. 37. NRS 408.111 is hereby amended to read as follows:

408.111 1. The Department consists of a Director, two Deputy Directors, a Chief Engineer and the : ~~following divisions:~~

(a) Administrative Division.

(b) Operations Division.

(c) Engineering Division.

(d) Planning Division.

(e) *Nevada State Infrastructure Bank.*

2. The head of a Division is an assistant director. Assistant directors are in the unclassified service of the State.

Sec. 38. NRS 408.116 is hereby amended to read as follows:

408.116 *Except as otherwise provided in sections 2 to 36, inclusive, of this act:*

1. All legal notices, writs, service and process issued or ordered by a court of competent jurisdiction wherein the Department is named as a defendant must be personally served upon both the Director and the Chair of the Board or, in the absence of the Director and the Chair of the Board, the process must be served personally upon both the Secretary of State and one of the Deputy Directors.

2. All legal actions brought and defended by the Department must be in the name of the State of Nevada on relation of its Department.

3. This section is not a consent on the part of the Department to be sued.

Sec. 39. NRS 408.172 is hereby amended to read as follows:

408.172 1. Subject to the approval of the Board, the Attorney General shall, immediately upon request by the Board, appoint an attorney at law as the Chief Counsel of the Department, and such assistant attorneys as are necessary. Attorneys so appointed are deputy attorneys general.

2. *Except as otherwise provided in sections 2 to 36, inclusive, of this act:*

(a) The Chief Counsel shall act as the attorney and legal adviser of the Department in all actions, proceedings, hearings and all matters relating to the Department and to the powers and duties of its officers.

~~{3-}~~ (b) Under the direction of or in the absence of the Chief Counsel, the assistant attorneys may perform any duty required or permitted by law to be performed by the Chief Counsel.

~~{4-}~~ (c) The Chief Counsel and assistant attorneys are in the unclassified service of the State.

~~{5-}~~ (d) All contracts, instruments and documents executed by the Department must be first approved and endorsed as to legality and form by the Chief Counsel.

Sec. 40. NRS 408.265 is hereby amended to read as follows:

408.265 ~~{A-}~~ *Except as otherwise provided in sections 2 to 36, inclusive, of this act, all money received from the Government of the United States and by virtue of the provisions of any Act of Congress for the engineering, planning, surveying, acquiring of property, constructing, reconstructing or improving of any highway in the State must be put into the State Treasury and become a part of the State Highway Fund and that Fund must not be used for any other purpose.*

Sec. 41. NRS 408.389 is hereby amended to read as follows:

408.389 1. Except as otherwise provided in subsection 2, *and sections 2 to 36, inclusive, of this act*, the Department shall not purchase any equipment which exceeds \$50,000, unless the purchase is first approved by the Board.

2. Before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department shall:

(a) Prepare and present to the Board an analysis of the costs and benefits, including, without limitation, all related personnel costs, that are associated with:

(1) Purchasing, operating and maintaining the same item of equipment;

(2) Leasing, operating and maintaining the same item of mobile equipment; or

(3) Contracting for the performance of the work which would have been performed using the mobile equipment; and

(b) Justify the need for the purchase based on that analysis.

3. The Board shall not:

(a) Delegate to the Director its authority to approve purchases of equipment pursuant to subsection 1; or

(b) Approve any purchase of mobile equipment which exceeds \$50,000 and for which the Department is unable to provide justification pursuant to subsection 2.

Sec. 42. As soon as practicable after the effective date of this section, the Governor shall appoint two members to the Board of Directors of the Nevada State Infrastructure Bank as required by section 19 of this act and an Executive Director of the Nevada State Infrastructure Bank as required by section 21 of this act.

Sec. 43. 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. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 43, inclusive, of this act become effective only upon the Director of the Department of Transportation providing notice to the Governor and the Director of the Legislative Counsel Bureau that sufficient money is

available to capitalize and carry on the business of the Nevada State Infrastructure Bank created by section 19 of this act.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 657 makes various changes to Senate Bill No. 517. Specifically, this amendment defines utility as having the meaning provided in chapter 408 of *Nevada Revised Statutes*; revises the definition of utility infrastructure to include the distribution or transmission system; clarifies the members of the Board of Directors of Nevada State Infrastructure Bank are public officers as defined in Chapter 281A of *Nevada Revised Statutes*; requires the Board of Directors to act in a commercially reasonable manner, and requires the Executive Director and any employees of the Nevada State Infrastructure Bank to be paid by money allocated to the bank and appropriated or authorized by the Legislature or the Interim Finance Committee.

Amendment adopted.

Bill read third time.

Remarks by Senator Farley.

Senate Bill No. 517 establishes the Nevada State Infrastructure Bank within the Department of Transportation for the purpose of providing loans and other financial assistance to various units of State and local government for the development, construction, improvement, operation and ownership of certain transportation facilities and utility infrastructure. Specifically, this bill authorizes the bank to accept money from various sources and to perform certain acts in connection with the financing of certain transportation facilities and utility infrastructure; authorizes various governmental entities to perform certain acts in connection with selected transportation facilities and utility infrastructure; defines utility as having the meaning provided in chapter 408 of *Nevada Revised Statutes*, and creates the Nevada State Infrastructure Bank Fund as a non-reverting, enterprise fund with numerous federal and State accounts.

It also creates the unclassified Executive Director of the bank that is appointed by and serves at the pleasure of the Governor; requires the Executive Director and any employees of the Nevada State Infrastructure Bank to be paid by money allocated to the bank and appropriated or authorized by the Legislature or the Interim Finance Committee; establishes the seven members of the Board of Directors for the bank as the Director of the Department of Business and Industry or his/her designee, the State Treasurer or his/her designee, the Director of the Department of Transportation or his/her designee, the Executive Director of the Governor's Office of Economic Development, the Administrator of the State Public Works Division, and two members of the general public appointed by the Governor, and requires the board to act in a commercially reasonable manner; and provides immunity from civil liability to the officers and employees of the bank for certain official acts under select circumstances.

Senate Bill No. 517, is effective when the Director of the Department of Transportation provides notice to the Governor and the Director of the Legislative Counsel Bureau that sufficient money is available to capitalize and carry on the business of the Nevada State Infrastructure Bank.

Roll call on Senate Bill No. 517:

YEAS—21.

NAYS—None.

Senate Bill No. 517 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 288.

Read third time.

Senator Cannizzaro moved that the bill be taken from the General File and placed on the General File, last Agenda.

Motion carried.

Senate Bill No. 394.

Bill read third time.

The following amendment was proposed by Senator Spearman:

Amendment No. 910.

SUMMARY—Revises provisions relating to health insurance. (BDR 57-950)

AN ACT relating to health insurance; requiring health maintenance organizations to provide certain data relating to health insurance claims to the person responsible for overseeing the health care plan of certain group purchasers of health insurance upon request; requiring the Legislative Committee on Health Care to study certain issues relating to health care during the 2017-2018 interim; and providing other matters properly relating thereto. Legislative Counsel's Digest:

Section 1 of this bill requires a health maintenance organization which provides a health care plan to certain large employers or multiple employer trusts to provide to the person responsible for overseeing the health care plan for the employer or trust upon request, not more than once every 3 months, either: (1) all claims data relating to the enrollees of the health care plan; or (2) sufficient data for the employer or trust to calculate the cost of providing certain medical services through the health maintenance organization. Section 1 requires such data to: (1) be free of any personally identifiable information; (2) comply with all other federal and state laws concerning privacy; and (3) be easily accessible. Section 1 also requires a health maintenance organization ~~[upon the request of certain large employers or multiple employer trusts]~~ to prepare and provide, under certain circumstances, an annual report relating to the cost and percentage trends in such data.

Section 2 of this bill requires the Legislative Committee on Health Care to study certain issues relating to: (1) making a program similar to the Medicaid managed care program which is currently available to certain low-income persons in this State available to persons who are not eligible for Medicaid; and (2) ensuring the same level of health insurance coverage which is currently available in this State pursuant to the Patient Protection and Affordable Care Act (Public Law 111-148, as amended) is maintained if the Affordable Care Act is repealed by Congress. Section 2 requires the Legislative Committee on Health Care to submit a report relating to these issues to the Director of the Legislative Counsel Bureau by not later than September 1, 2018.

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

Section 1. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 4, not more than once every 3 months, a health maintenance organization shall provide to the person responsible for overseeing the health care plan for a group purchaser ~~that submits a~~ upon written request ~~from that person~~.

(a) All claims data relating to the enrollees in a health care plan provided by the health maintenance organization pursuant to a contract with the group purchaser; or

(b) Sufficient data relating to the claims of enrollees in the health care plan to allow the group purchaser to calculate the cost-effectiveness of the benefits provided by the health maintenance organization. Such data must include, without limitation:

(1) Data necessary to calculate the actual cost of obtaining medical services through the health maintenance organization, organized by medical service and category of disease;

(2) Data relating to enrollees in the health care plan who receive care, including, without limitation, demographics of such enrollees, prescriptions, office visits with a provider of health care, inpatient services and outpatient services, as used by the health maintenance organization to make calculations which are required to comply with the risk adjustment, reinsurance and risk corridor requirements of 42 U.S.C. §§ 18061, 18062 and 18063; and

(3) Such data as used to establish an experience rating for the enrollees in the health care plan, including, without limitation, coding relating to diagnostics and procedures, the total cost charged to any person for each drug, device or service made available by the health care plan and all reimbursements made to a provider of health care for such drugs, devices or services.

2. If ~~if a group purchaser files~~ a written request ~~is~~ made pursuant to subsection 1, the health maintenance organization must also provide an annual report relating to the quarterly data required to be made available ~~to the group purchaser~~ pursuant to subsection 1, which must include, without limitation, sufficient detail to demonstrate the annual changes in the cost and the percentage of increase or decrease, as applicable, for each category of information made available pursuant to subsection 1.

3. A health maintenance organization shall provide the data required by this section in an aggregated form which complies with federal and state law, including, without limitation, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations.

4. Before providing any data pursuant to subsection 1, a health maintenance organization shall ensure that a professional statistician examines the data to confirm that such data cannot be used to identify and does not provide a reasonable basis upon which to identify a person whose information is included in the report. If the professional statistician is not able to make such a confirmation, the data must not be provided by the health

maintenance organization ~~to the group purchaser~~ until such confirmation is obtained.

5. A health maintenance organization must provide the data required by ~~subsection 1~~ this section in a format which is easily searchable electronically or on a secure Internet website. A health maintenance organization may only provide the data described in this section relating to the health care plan of a group purchaser to the person responsible for overseeing the health care plan for the group purchaser and not relating to the health care plan of any other group purchaser.

6. A group purchaser must have policies and procedures in place which are compliant with federal law, including, without limitation, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the regulations adopted pursuant thereto, and the laws of this State to ensure the privacy and security of the data made available to the person responsible for overseeing the health care plan for a group purchaser pursuant to this section.

7. As used in this section, "group purchaser" means:

(a) An employer that employs at least 1,000 employees, at least 300 of whom are enrolled in a health care plan which is offered by a health maintenance organization; or

(b) A group of employers that cumulatively employ at least 500 employees and which has formed a trust for the purpose of funding health care benefits for at least 300 employees who are enrolled in a health care plan which is offered by a health maintenance organization.

Sec. 2. 1. The Legislative Committee on Health Care shall, during the 2017-2018 interim, study opportunities for:

(a) The establishment of a program similar to the Medicaid managed care program authorized by NRS 422.273 to be made available through the Silver State Health Insurance Exchange established by NRS 695I.200 to a person who is otherwise ineligible for Medicaid;

(b) A person who is determined eligible for advance payments of the premium tax credit and cost-sharing reductions pursuant to 45 C.F.R. § 155.305 to use such credits and reductions to pay for coverage obtained through the program described in paragraph (a); and

(c) The Nevada Legislature to ensure the current level of health insurance coverage provided in this State pursuant to the Patient Protection and Affordable Care Act, Public Law 111-148, as it existed on the effective date of this act, is maintained if the Affordable Care Act is repealed by Congress.

2. The Legislative Committee on Health Care shall conduct the study required pursuant to subsection 1 in consultation with:

(a) The Department of Health and Human Services;

(b) The Division of Insurance of the Department of Business and Industry;

(c) The Silver State Health Insurance Exchange; and

(d) Any other entity identified by the Committee which has expertise in the topics listed in subsection 1.

3. The Legislative Committee on Health Care shall submit a report of the results of the study required pursuant to subsection 1 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the Legislature not later than September 1, 2018.

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

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Amendment No. 910 revises Senate Bill No. 394 to clarify to whom certain data must be provided. Specifically, a health maintenance organization (HMO) that provides a health-care plan to certain large employers, multiple employers or trusts, must provide requested data to the person responsible for overseeing the health-care plan or trust. In addition, an HMO may only provide data regarding a health-care plan of a group purchaser to the person responsible for overseeing the health-care plan and not relating the health-care plan of any other group purchaser.

Amendment adopted.

Bill read third time.

Remarks by Senator Spearman.

Senate Bill No. 394 requires that, upon request, a health-maintenance organization to provide certain data to the person responsible for overseeing the health-care plan for a group purchaser. The data must be provided in an aggregated form that complies with federal and State law, including the Health Insurance Portability and Accountability Act of 1996. The bill also requires the Legislative Committee on Healthcare to study, during the 2017-2018 interim, opportunities to establish a program similar to the Medicaid managed-care program and to make the program available through the Silver State Health Insurance Exchange among other things. The Committee must report the results of the study and any recommendations to the Legislature by Sept 1, 2018.

Roll call on Senate Bill No. 394:

YEAS—17.

NAYS—Gustavson, Hardy, Kieckhefer, Settlemeyer—4.

Senate Bill No. 394 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 485.

Bill read third time.

Remarks by Senator Farley.

Assembly Bill No. 485 requires that certain new school buses be equipped with federally approved shoulder-harness-type safety belts for each permanent seating position for passengers. The bill transfers from the Department of Motor Vehicles to the Department of Public Safety the requirement to semiannually inspect school buses. Lastly, with certain exceptions, the bill revises the definition of school bus to more closely comport with the definition in the Federal Motor Carrier Safety Regulations and makes conforming changes to laws related to school buses.

Assembly Bill No. 485 also allows a school district to enter into an agreement to lease out school buses or other district vehicles for special events taking place in the county where the school district is located. Such agreements must not interfere with providing transportation for students, and the district must determine that a commercial bus is not reasonably available for the event. No more than 8.5 percent of the total number of a district's vehicles may be leased out at a time.

The bill sets out certain specifications for a lease agreement, including a security deposit, fee requirements, indemnity provisions, responsibility for damage, proof of insurance and driver licensure, acknowledgment that the lessee is not entitled to certain limitations on damages and proof of a permit or approval for the event, if required by a governmental entity. District employees

must be given preference in hiring for operation of the vehicles. Money collected from a lease agreement that exceeds district costs may be used at the discretion of the school district, with certain exceptions.

Roll call on Assembly Bill No. 485:

YEAS—21.

NAYS—None.

Assembly Bill No. 485 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 125.

The following Assembly amendment was read:

Amendment No. 793.

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

AN ACT relating to ~~civil rights; revising provisions governing the restoration of certain civil rights to certain persons who have been convicted of felonies;~~ criminal records; revising provisions governing the sealing of the criminal records of a person; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

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

petition the court for sealing of his or her records of criminal history relating to the conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) Of an offense that would constitute a category A felony if committed as of the date of completion of 1 year of his or her term of probation;~~

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

~~(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of completion of 1 year of his or her term of probation;~~

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

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

~~—(a) The right to vote;~~
~~—(b) The right to serve as a juror in a civil action; and~~
~~—(c) The right to serve as a juror in a criminal action.] (Deleted by amendment.)~~

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

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

~~—(a) Has fulfilled the conditions of probation for the entire period thereof;~~
~~—(b) Is recommended for earlier discharge by the Division; or~~
~~—(c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court;~~

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

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

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

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

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

~~—(1) The right to vote; and~~

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

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

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

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

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

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

~~—[(h) (f) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.~~

~~—[(i) (g) Except as otherwise provided in paragraph [(h),] (f), need not disclose the conviction to an employer or prospective employer.~~

~~4. Except as otherwise provided in this subsection, the civil [rights set forth in subsection 3 are] right to hold office is not restored to a person honorably discharged from probation if the person has previously been convicted in this State:~~

~~—(a) Of a category A felony;~~

~~—(b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.~~

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

~~—(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.~~

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

~~— A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of the civil [rights as set forth in subsection 3.] *right to hold office*.~~

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

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

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

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

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

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

~~—7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's civil [rights] *right to hold office* pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil [rights set forth] *right to hold office as provided* in subsection 3, the court shall issue an order restoring the person to the civil [rights set forth] *right to hold office as provided* in subsection 3. A person must not be required to pay a fee to receive such an order.~~

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

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

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

~~as proof that the person has been restored to the civil [rights set forth] right to hold office as provided in subsection 3.] (Deleted by amendment.)~~

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

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

- ~~1. Whose whereabouts are unknown;~~
- ~~2. Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or~~
- ~~3. Who has otherwise failed to qualify for an honorable discharge as provided in NRS 176A.850;~~

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

Sec. 4. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:

(a) A category A ~~for B~~ felony, *a crime of violence or a burglary of a residence*, after ~~[15]~~ 10 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(b) ~~[A]~~ Except as otherwise provided in paragraphs (a) and (e), a category B, C or D felony after ~~[12]~~ 5 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after ~~[7]~~ 2 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Except as otherwise provided in paragraph (e), any gross misdemeanor after ~~[5]~~ 2 years from the date of release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 422.540 to 422.570, inclusive, ~~[other than a felony,]~~ a violation of NRS 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later; ~~[or]~~

(f) *Except as otherwise provided in paragraph (e), a misdemeanor for battery pursuant to NRS 200.481, a misdemeanor for harassment, a misdemeanor for stalking or a misdemeanor for a violation of a temporary or extended order for protection against harassment or stalking, 2 years after the date of release from actual custody or after the date when the person is no longer under a suspended sentence, whichever occurs later; or*

(g) Any other misdemeanor after ~~{2 years}~~ 1 year from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by the petitioner's current, verified records received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) All agencies of criminal justice which maintain such records within the city or county in which the conviction was entered;

(b) If the petition references NRS 453.3365 or 458.330, include a certificate of acknowledgment or the disposition of the proceedings for the records to be sealed from all agencies of criminal justice which maintain such records;

(c) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(d) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the petitioner;

(2) Specific conviction to which the records to be sealed pertain; and

(3) Date of arrest relating to the specific conviction to which the records to be sealed pertain.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and the prosecuting attorney, including, without limitation, the Attorney General, who prosecuted the petitioner for the crime. The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner returned to the file of the court where the proceeding was commenced from, including, without limitation, the Federal Bureau of Investigation ~~{, the California Bureau of Criminal Identification and Information}~~ and all other agencies of criminal justice which maintain such records and which are reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of:

(a) A crime against a child;

(b) A sexual offense;

(c) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to paragraph (c) of subsection 1 of NRS 484C.400;

(d) A violation of NRS 484C.430;

(e) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430;

(f) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS 488.427; or

(g) A violation of NRS 488.420 or 488.425.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section ~~[-]~~, *unless the context otherwise requires:*

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

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

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

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

(e) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(12) Lewdness with a child pursuant to NRS 201.230.

(13) Sexual penetration of a dead human body pursuant to NRS 201.450.

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

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

(16) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(17) An attempt to commit an offense listed in this paragraph.

(f) *"Stalking" means a violation of NRS 200.575.*

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

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

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

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

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

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

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

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

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

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

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

~~—(c) "Program for reentry" means:~~

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

~~—(2) A judicial program for reentry of offenders and parolees into the community that is established in a judicial district pursuant to NRS 209.4883.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~is immediately restored to the civil rights to vote, to serve as a juror in a civil action and to serve as a juror in a criminal action. A person whose civil rights are restored pursuant to this subsection must be provided an official document which states that the person has been restored to the civil rights set forth in this subsection.~~

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

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

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

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

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

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

~~(b) Of an offense that would constitute a category A felony if committed as of the date of completion of a term of parole of less than 1 year or completion of 1 year of his or her term of parole;~~

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

~~(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of completion of a term of parole of less than 1 year or completion of 1 year of his or her term of parole;~~

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

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

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

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

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

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

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

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

~~1. "Board" means the State Board of Parole Commissioners;~~

~~2. "Chief" means the Chief Parole and Probation Officer;~~

~~3. "Division" means the Division of Parole and Probation of the Department of Public Safety;~~

~~4. "Residential confinement" means the confinement of a person convicted of a crime to his or her place of residence under the terms and conditions established by the Board;~~

~~5. "Sex offender" means any person who has been or is convicted of a sexual offense;~~

~~6. "Sexual offense" means:~~

~~(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230, 201.450, 201.540 or 201.550 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;~~

~~(b) An attempt to commit any offense listed in paragraph (a); or~~

~~—(e) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.~~

~~—7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.] (Deleted by amendment.)~~

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

~~—213.155 1. Except as otherwise provided in subsection 2, a person who receives an honorable discharge from parole pursuant to NRS 213.154 [:~~

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

~~—(1) The right to vote; and~~

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

~~—(b) Four] 4 years after the date of [his or her] honorable discharge from parole [,] is restored to the civil right to hold office.~~

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

~~—2. Except as otherwise provided in this subsection, the civil [rights set forth in subsection 1 are] right to hold office is not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:~~

~~—(a) Of a category A felony.~~

~~—(b) Of an offense that would constitute a category A felony if committed as of the date of [his or her] honorable discharge from parole.~~

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

~~—(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of [his or her] honorable discharge from parole.~~

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

~~—* A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of [his or her] the civil [rights] right to hold office as [set forth] provided in subsection 1.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~—213.157—1. Except as otherwise provided in subsection 2, a person convicted of a felony in the State of Nevada who has served his or her sentence and has been released from prison:~~

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

~~—(1) The right to vote; [and]~~

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

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

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

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

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

~~—(a) Of a category A felony.~~

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

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

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

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

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

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

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

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

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

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

~~—4. Subject to the limitations set forth in subsection 2, a person who has been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.~~

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

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

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

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

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

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

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

~~—2. If the county clerk is provided a certified copy of a court order stating that the court specifically finds by clear and convincing evidence that the person registered lacks the mental capacity to vote because he or she cannot~~

~~communicate, with or without accommodations, a specific desire to participate in the voting process.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~4. If the registration of an elector is cancelled pursuant to the provisions of subsection 6 of NRS 293.540, after the close of registration for a primary~~

~~election, the elector may not reregister until after the primary election.]~~
(Deleted by amendment.)

Senator Segerblom moved that the Senate concur in Assembly Amendment No. 793 to Senate Bill No. 125.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 185.

The following Assembly amendment was read:

Amendment No. 727.

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

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

Legislative Counsel's Digest:

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

removing from the forum any statement or information that the person is lawfully entitled to remove.

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

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto ~~the~~ new section to read as follows: the provisions set forth as sections 2 and 3 of this act.

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

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

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

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

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

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

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

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

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

(a) A civil penalty of not more than:

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

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

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

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

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

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

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

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

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

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

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

9. *As used in this section:*

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

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

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

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

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

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

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

2. Any retail installment contract for the sale of any living animal or goods intended for personal, family or household use, including, without limitation, pets, tires, batteries and hearing aids, is subject to the provisions of the Truth

in Lending Act, 15 U.S.C. §§ 1601 et seq., and any regulations adopted pursuant thereto.

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

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

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

6. As used in this section:

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

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

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

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

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

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

Senator Atkinson moved that the Senate concur in Assembly Amendment No. 727 to Senate Bill No. 185.

Remarks by Senator Atkinson.

Amendment No. 727 to Senate Bill No. 185 clarifies in the act that it is full time. It also provides for 25 or more employees in private employment. It clarifies that it is a 40-hour work week rather than a 30-hour work week. It additionally states that a full time employee works at least 1,600 hours over a 12-month period for their employer.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 196.

The following Assembly amendment was read:

Amendment No. 887.

SUMMARY—Requires certain employers in private employment to provide paid sick leave to full-time employees under certain circumstances. (BDR 53-682)

AN ACT relating to employment; requiring certain employers in private employment to provide paid sick leave to each full-time employee of the employer under certain circumstances; providing an exception; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires employers in private employment to pay employees certain minimum compensation and to provide certain benefits, including overtime compensation and meal and rest breaks. (NRS 608.018, 608.019,

608.250) Section 1 of this bill requires a private employer who has ~~{50}~~ 25 or more employees in private employment in this State ~~{for each working day in each of 20 or more calendar weeks in the current or immediately preceding calendar year}~~ and who has conducted business in this State for at least 12 consecutive months to, at a minimum, provide full-time employees paid sick leave that must be earned at a rate of not less than 1 hour per ~~{30}~~ 40 hours worked and may be used by an employee beginning on the ~~{90th calendar day}~~ first anniversary date of his or her employment. Section 1 sets forth that an employee is a full-time employee of the employer if the employee works at least 1,600 hours for the employer during a 12-month period beginning on the date the employee is hired. Section 1 also provides that an employer may: (1) limit the use of the paid sick leave to ~~{24}~~ 40 hours per year; and (2) ~~{limit the accrual of paid sick leave to a maximum of 48 hours per year; (3) require an employee who uses paid sick leave for 3 or more consecutive days to provide, upon his or her return to work, a reasonable certification of the need for the leave; and (4)}~~ set a minimum increment that an employee may use the accrued sick leave at any one time, not to exceed 2 hours. Section 1 additionally requires an employer to maintain records of the accrual and use of paid sick leave for each employee for a 3-year period and to make those records available for inspection by the Labor Commissioner. Section 1 requires the Labor Commissioner to prepare a bulletin setting forth these benefits and requires employers to post the bulletin in the workplace. ~~{Finally, section}~~ Section 1: (1) provides an exception for employers who provide at least an equivalent amount of sick leave or paid time off; {that may be used for the same purposes and under the same conditions as required by this bill;} and (2) excludes from the requirements of this bill certain employees who perform work on an occasional or irregular basis, perform physical work at a construction site that results in the construction, alteration or destruction involved in the construction project ~~{for are employed in a bona fide executive, administrative or professional capacity;}~~ , perform work for a hospital, a facility for long-term care or a provider of health care on an occasional or irregular basis or work less than 12 consecutive months for the employer. Finally, section 1 prohibits this bill from being interpreted as allowing an employee to be compensated more than once for the same hour of leave.

Existing law requires an employer to establish and maintain records of wages for the benefit of his or her employees. (NRS 608.115) Section 1.5 of this bill requires this record to include the total hours of sick leave available for use by each employee.

Section 2 of this bill requires the Labor Commissioner to enforce the provisions of section 1, and section 3 of this bill makes a violation of the provisions of section 1 a misdemeanor and authorizes the Commissioner to impose, in addition to any other remedy or penalty, a penalty of up to \$5,000 for each violation. (NRS 608.180, 608.195)

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. Except as otherwise provided in this section, every employer who has conducted business in this State for at least 12 consecutive months shall provide paid sick leave to each full-time employee of the employer as follows:

(a) ~~Any~~ A full-time employee is entitled to accrue paid sick leave at a rate of not less than 1 hour for every ~~30~~ 40 hours worked by the full-time employee. ~~[For the purposes 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 sick leave must accrue based upon the hours worked in that employee's normal week of work.]~~

(b) Accrued paid sick leave must carry over for each employee between his or her years of employment, ~~[except an employer may limit the accrual of paid sick leave for each employee to a maximum of 48 hours per year.]~~ not to exceed a total accrual of 80 hours of accrued paid sick leave.

(c) Paid sick 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 hours 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 that period.

(d) An employer may limit the amount of paid sick leave an employee uses to ~~24~~ 40 hours per year.

(e) ~~[An employer may require an employee who uses paid sick leave for 3 or more consecutive days to provide, upon his or her return to work, a reasonable certification of the need for the leave. Such reasonable certification may include, without limitation, a signed document from a provider of health care affirming the illness of the employee or a dependent of the employee.]~~

~~—(f)—~~ An employer may set a minimum increment of paid sick leave, not to exceed 2 hours, that an employee may use at any one time.

~~—(g)—~~ (f) An employer is not required to compensate an employee for any accrued unused sick leave upon separation from employment, ~~[except if an employee is rehired by the employer within 1 year after separation from that employer, any previously accrued unused sick leave hours must be reinstated.]~~

2. An employee of an employer may use accrued sick leave as follows:

(a) An employee must be allowed to use accrued sick leave beginning on the ~~90th calendar day of~~ first anniversary date of his or her employment.

(b) An employee may use accrued paid sick leave:

(1) For the diagnosis, care or treatment of an existing health condition of, or preventive care for, the employee or a member of the employee's family or household; or

(2) To obtain counseling or assistance or to participate in any court proceedings related to domestic violence or sexual assault.

(c) To the extent possible, an employee shall give reasonable advance notice to his or her employer of the need to use accrued paid sick leave.

(d) An employer shall not:

(1) Deny an employee the right to use accrued sick leave in accordance with the conditions of this section;

(2) Require an employee to find a replacement worker as a condition of using sick leave; or

(3) Retaliate against an employee for using sick leave.

3. The Labor Commissioner shall prepare a bulletin which clearly sets forth 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.

4. An employer shall maintain records of the accrual and use of paid sick leave 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.

5. 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 sick leave benefit or paid time off benefit.

(d) Prohibit an employer from creating and enforcing a policy that prohibits the improper use of paid sick leave.

6. This section does not apply to:

(a) An employer who, ~~[pursuant to a collective bargaining agreement,]~~ by contract, policy or other agreement, provides full-time employees with a paid sick leave policy or a paid time off policy that provides for at least ~~[24]~~ 40 hours of paid leave per year, ~~[that may be used for the same purposes and under the same conditions as specified in this section.]~~

(b) An employee who:

(1) Is a day or temporary worker who performs work on an occasional or irregular basis for a limited period of time;

(2) Actually performs physical work at a construction site that results in the construction, alteration or destruction involved in the construction project;
or

(3) ~~[Is employed in a bona fide executive, administrative or professional capacity; or~~

~~—(4)—~~ Performs work for a hospital, a facility for long-term care or a provider of health care on an occasional or irregular basis as needed by the hospital, facility for long-term care or provider of health care.

(c) An employee who works less than 12 consecutive months for his or her employer.

7. The provisions of this section must not be interpreted to allow an employee to be compensated more than once for the same hours of leave.

8. For the purposes of this section, an employee is a full-time employee of an employer if the employee works at least 1,600 hours for the employer during a 12-month period beginning on the date of employment.

9. As used in this section:

(a) "Employer" means a private employer who has ~~501~~ 25 or more employees in private employment in this State ~~for each working day in each of 20 or more calendar weeks in the current or immediately preceding calendar year.~~ The term does not include a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(b) "Facility for long-term care" has the meaning ascribed to it in NRS 427A.028.

(c) "Hospital" has the meaning ascribed to it in NRS 449.012.

(d) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 1.5. NRS 608.115 is hereby amended to read as follows:

608.115 1. Every employer shall establish and maintain records of wages for the benefit of his or her employees, showing for each pay period the following information for each employee:

(a) Gross wage or salary other than compensation in the form of:

(1) Services; or

(2) Food, housing or clothing.

(b) Deductions.

(c) Net cash wage or salary.

(d) Total hours employed in the pay period by noting the number of hours per day.

(e) Date of payment.

(f) Total hours of paid sick leave available for use by the employee.

2. The information required by this section must be furnished to each employee within 10 days after the employee submits a request.

3. Records of wages must be maintained for a 2-year period following the entry of information in the record.

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. This act becomes effective:

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

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

Senator Atkinson moved that the Senate concur in Assembly Amendment No. 887 to Senate Bill No. 196.

Remarks by Senator Atkinson.

Amendment No. 887 to Senate Bill No. 196 makes a few changes. It clarifies in the act that it is full-time; provides for 25 or more employees in a private employment; clarifies that it is a 40-hour week versus a 30-hour workweek, and clarifies a fulltime employee of employer who works at least 1,600 hours for that employer during a 12-month period.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 239.

The following Assembly amendment was read:

Amendment No. 791.

SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-471)

AN ACT relating to common-interest communities; revising provisions authorizing an employee, agent or community manager of a unit-owner's association to enter the grounds of certain units under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law assigns the responsibility for the maintenance, repair and replacement of a unit in a common-interest community to the owner of the unit and the maintenance, repair and replacement of a common element in the community to the unit-owners' association. (NRS 116.3107) Existing law further provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if, after notice and a hearing, the unit's owner refuses or fails to do so. (NRS 116.310312) Under existing law, the association is authorized to charge the unit's owner for the costs of such maintenance or

abatement services and any such costs which are not paid by the unit's owner are a lien against the unit. (NRS 116.3102, 116.310312, 116.3116)

This bill revises the definition of "exterior of the unit" for the purpose of determining the areas of a unit that may be maintained by a unit-owners' association that enters the grounds of a unit in accordance with existing law. Under the revised definition, the "exterior of the unit" would include the exterior of any property that a unit owner is obligated to maintain pursuant to the declaration under which the common-interest community was created. Thus, under this bill, an association would be authorized to enter the grounds of a unit to maintain such areas of the unit if the conditions specified in existing law were satisfied.

In addition, this bill sets forth additional circumstances under which a unit-owners' association may, without liability for trespass, enter on the grounds or interior of a unit that is located in a building that contains units divided by horizontal boundaries or vertical boundaries comprised of common walls between units. Under this bill, the association may enter ~~for~~ the grounds and interior of such a unit that is vacant ~~for in the foreclosure process, whether vacant or not,~~ to abate a water or sewage leak in the unit that is causing damage or, if not immediately abated, may cause damage to the common elements or another unit and to ~~remediate or~~ remove any water or ~~mold damage resulting from the leak~~ sewage from the unit that is causing damage if ~~after notice but before a hearing,~~ the unit's owner refuses or fails to do so. After notice but before a hearing, the association may enter the grounds and interior of such a unit that is vacant to remove damaged components of the unit and to remediate or remove any water or mold damage resulting from a water or sewage leak if the unit's owner refuses or fails to do so.

Under this bill, if the association or its employee, agent or community manager enter ~~for~~ the grounds or interior of a unit to remove damaged components or to remediate or remove any water or mold damage resulting from a water or sewage leak, the damaged components may be removed and the water or mold damage may be remediated or removed only to the extent reasonably necessary because the water or mold damage: (1) threatens the health or safety of the residents of the common-interest community; (2) results in blighting or deterioration of the unit or the surrounding area; ~~for~~ and (3) adversely affects the use and enjoyment of nearby units. ~~In addition,~~

This bill also provides that if ~~the~~ a unit is vacant and not in the foreclosure process, the association or its employees, agents or community manager are not authorized to ~~remediate or remove such damage~~ maintain the exterior of the unit or abate a public nuisance unless, ~~(1)~~ the association notifies each holder of a recorded security interest of its intent to ~~remediate the damage,~~ and (2) within 14 days after the mailing of that notice, each holder of a recorded security interest to whom the notice is mailed notifies the association that the holder does not intend to remediate the damage or fails to remediate the damage, maintain the exterior of the unit or abate a public nuisance.

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

Section 1. NRS 116.310312 is hereby amended to read as follows:

116.310312 1. A person who holds a security interest in a unit must provide the association with the person's contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or

(b) Records or has recorded on his or her behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

~~[(c) If the unit is in a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units:~~

~~—(1) Abate any water or sewage leak in the unit that is causing damage or, if not immediately abated, may cause damage to the common elements or another unit.~~

~~—(2) Remediate or remove any water or mold damage resulting from the water or sewage leak to the extent such remediation or removal is reasonably necessary because the water or mold damage threatens the health or safety of the residents of the common interest community, results in blighting or deterioration of the unit or the surrounding area or adversely affects the use and enjoyment of nearby units. An association, including its employees, agents and community manager, may not enter the grounds of the unit or incur any expense to remediate water or mold damage pursuant to this subparagraph unless:~~

~~(I) The association or its employee, agent or community manager mails a notice of the intent of the association, including its employees, agents and community manager, to remediate water or mold damage pursuant to this subparagraph by certified mail to each holder of a recorded security interest encumbering the interest of the unit's owner, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; and~~

~~(II) Within 14 days after the mailing of such notice, each holder of a recorded security interest to whom a notice is sent pursuant to sub-subparagraph (I) has notified the association or its employee, agent or community manager that the holder does not intend to remediate the water or mold damage or has failed to remediate such water or mold damage.]~~

3. If ~~the~~ :

~~(a) A unit is vacant and the~~ :

~~(b) The association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031 ~~the~~ ; and~~

~~(c) The association or its employee, agent or community manager mails a notice of the intent of the association, including its employees, agents and community manager, to maintain the exterior of the unit or abate a public nuisance, as described in subsection 2, by certified mail to each holder of a recorded security interest encumbering the interest of the unit's owner, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry,~~

↪ the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance, as described in ~~paragraphs (a) and (b) of~~ subsection 2, if the unit's owner refuses or fails to do so.

4. If a unit is in a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, and the unit is vacant, the association, including its employees, agents and community manager, may ~~enter the unit's owner notice but before a hearing,~~ enter the grounds and interior of the unit to:

(a) Abate a water or sewage leak in the unit and remove any water or sewage from the unit that is causing damage or, if not immediately abated, may cause damage to the common elements or another unit if the unit's owner refuses or fails to abate the water or sewage leak.

(b) After providing the unit's owner with notice but before a hearing in accordance with the provisions of NRS 116.31031:

(1) Remove any furniture, fixtures, appliances and components of the unit, including, without limitation, flooring, baseboards and drywall, that were damaged as a result of water or mold damage resulting from a water or sewage leak to the extent such removal is reasonably necessary because water

or mold damage threatens the health or safety of the residents of the common-interest community, results in blighting or deterioration of the unit or the surrounding area and adversely affects the use and enjoyment of nearby units, if the unit's owner refuses or fails to remediate or remove the water or mold damage.

(2) Remediate or remove any water or mold damage in the unit resulting from the water or sewage leak to the extent such remediation or removal is reasonably necessary because the water or mold damage threatens the health or safety of the residents of the common-interest community, results in blighting or deterioration of the unit or the surrounding area ~~f, or~~ and adversely affects the use and enjoyment of nearby units, if the unit's owner refuses or fails to remediate or remove the water or mold damage. ~~An association, including its employees, agents and community manager, may not enter the ground of the unit or incur any expense to remediate water or mold damage pursuant to this subparagraph unless~~

~~— (1) The association or its employee, agent or community manager mails a notice of the intent of the association, including its employees, agents and community manager, to remediate water or mold damage pursuant to this subparagraph by certified mail to each holder of a recorded security interest encumbering the interest of the unit's owner, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; and~~

~~— (2) Within 14 days after the mailing of such notice, each holder of a recorded security interest to whom a notice is sent pursuant to subparagraph (1) has notified the association or its employee, agent or community manager that the holder does not intend to remediate the water or mold damage or has failed to remediate such water or mold damage.~~

5. ~~[The]~~ After the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association may order that the costs of any maintenance ~~f, or~~ or abatement ~~f, or~~ or the reasonable costs of remediation or removal conducted pursuant to subsection 2, ~~for~~ 3 ~~f, or~~ or 4, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~{5-}~~ 6. A lien described in subsection ~~{4}~~ 5 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.

~~{6-}~~ 7. Except as otherwise provided in this subsection, a lien described in subsection ~~{4}~~ 5 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage

Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.

~~{7.}~~ 8. A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit may only be removed from a common-interest community in accordance with the governing documents pursuant to this chapter.

~~{8.}~~ 9. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds *or interior* of a unit pursuant to this section are not liable for trespass.

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

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit, ~~and~~ the exterior of all property exclusively owned by the unit owner ~~and the exterior of all property that the unit owner is obligated to maintain pursuant to the declaration.~~

(b) "Remediation" does not include restoration.

~~(c)~~ "Vacant" means a unit:

(1) Which reasonably appears to be unoccupied;

(2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents of the association; and

(3) On which the owner has failed to pay assessments for more than 60 days.

Senator Segerblom moved that the Senate concur in Assembly Amendment No. 791 to Senate Bill No. 239.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 253.

The following Assembly amendment was read:

Amendment No. 800.

SENATORS CANNIZZARO, RATTI, WOODHOUSE, CANCELA, FORD; DENIS, FARLEY, HARDY, MANENDO, PARKS, SEGERBLOM AND SPEARMAN

SUMMARY—Establishes the Nevada Pregnant Workers' Fairness Act to provide protections to female employees and applicants for employment who are affected by a condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition. (BDR 53-773)

AN ACT relating to employment; establishing the Nevada Pregnant Workers' Fairness Act; requiring certain employers to provide reasonable accommodations to female employees and applicants for employment for a

condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition, except in certain circumstances; prohibiting certain other discriminatory practices by employers relating to pregnancy, childbirth or a related medical condition; authorizing the Nevada Equal Rights Commission to investigate complaints of such unlawful employment practices; requiring the Commission to carry out programs to educate employers and others about certain rights and responsibilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Pregnancy Discrimination Act amended title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy. (42 U.S.C. § 2000(e)(k)) The Act requires employers with 15 or more employees to treat employees and applicants for employment who are affected by pregnancy, childbirth or related medical conditions the same as other employees and applicants who have similar abilities or limitations. The Act covers all aspects of employment, including hiring, firing, promoting and providing benefits and protects against discrimination of a person who is pregnant, has been pregnant and who may become pregnant as well as anyone who has, who has had or could have a medical condition that is related to pregnancy. (29 C.F.R. § 1604.10)

Existing law in this State prohibits various types of discrimination in employment, including discrimination based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin. (NRS 613.330-613.380) In addition, existing law requires an employer that provides leave to employees for sickness or disability because of a medical condition to provide the same leave to an employee who is pregnant. (NRS 613.335) As with the federal law, existing law in this State makes these provisions applicable to an employer with 15 or more employees, and includes state and local governments. (NRS 613.310) Sections 2-8 and 11 of this bill create the Nevada Pregnant Workers' Fairness Act which provides protections to employees in this State similar to the protections of the federal Pregnancy Discrimination Act. As with other provisions prohibiting discrimination in existing law, the Nevada Pregnant Workers' Fairness Act applies to employers with 15 or more employees and also applies to state and local governments.

Section 5 of this bill makes it an unlawful employment practice, with certain limited exceptions, for such employers to refuse to provide reasonable accommodations, upon request, to female employees and applicants for employment for a condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition, unless the accommodation would impose an undue hardship on the business of the employer. Section 6 of this bill describes the requirements and manner in which to provide a reasonable accommodation. Section 7 of this bill sets forth: (1) the prima facie burden that a female employee or applicant for employment is required to meet concerning a requested reasonable accommodation before the burden of proof shifts to the employer to demonstrate that providing such

an accommodation would impose an undue hardship on the business of the employer; and (2) the manner in which to determine whether an undue hardship exists. Section 5 also makes it an unlawful employment practice, with certain limited exceptions, for an employer to: (1) take adverse employment actions against a female employee because the employee requests or uses a reasonable accommodation for a condition of the employee relating to pregnancy, childbirth or a related medical condition; (2) deny an employment opportunity to a qualified female employee or applicant for employment based on a need for a reasonable accommodation for a condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition; and (3) require a female employee or applicant for employment who is affected by a condition relating to pregnancy, childbirth or a related medical condition to accept an accommodation or to take a leave from employment if an accommodation is available.

Section 5 further authorizes an employer to require a female employee to provide an explanatory statement from the employee's physician concerning the specific accommodation recommended by the physician for the employee. Section 11 of this bill extends the existing law requiring leave policies to be the same for pregnant employees as other employees so that it applies to a female employee who has a condition relating to pregnancy, childbirth or a related medical condition.

Section 15 of this bill authorizes a person injured by an unlawful employment practice within the scope of the Nevada Pregnant Workers' Fairness Act to file a complaint with the Nevada Equal Rights Commission.

Section 16 of this bill authorizes a person alleging an unfair employment practice under the Nevada Pregnant Workers' Fairness Act to file an action in district court if the Commission does not conclude that an unfair employment practice has occurred.

Section 17 of this bill requires the Commission to develop and carry out programs of education and disseminate information as necessary to inform employers, employees, employment agencies and job applicants about their rights and responsibilities under the Nevada Pregnant Workers' Fairness Act.

Section 18 of this bill authorizes the Commission to investigate any unlawful employment practice by an employer under the Nevada Pregnant Workers' Fairness Act.

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

Section 1. Chapter 613 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *The provisions of NRS 613.335 and sections 2 to 8, inclusive, of this act may be cited as the Nevada Pregnant Workers' Fairness Act.*

Sec. 3. *As used in NRS 613.335 and sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3.3, 3.5 and 3.7 of this act have the meanings ascribed to them in those sections.*

Sec. 3.3. *"Condition of the applicant relating to pregnancy, childbirth or a related medical condition," "condition of the employee relating to pregnancy, childbirth or a related medical condition" or "condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition" means a physical or mental condition intrinsic to pregnancy or childbirth that includes, without limitation, lactation or the need to express breast milk for a nursing child.*

Sec. 3.5. *"Reasonable accommodation" means an action described in section 6 of this act that is taken by an employer for a female employee or applicant for employment who has a condition relating to pregnancy, childbirth or a related medical condition.*

Sec. 3.7. *"Related medical condition" means any medically recognized physical or mental condition related to pregnancy, childbirth or recovery from pregnancy or childbirth. The term includes, without limitation, mastitis or other lactation-related medical condition, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, loss or end of pregnancy and recovery from loss or end of pregnancy.*

Sec. 4. 1. *The Legislature hereby finds and declares that:*

(a) Workplace laws must adequately protect pregnant women from being terminated from their employment because of the refusal of their employer to provide a reasonable accommodation;

(b) Women are often the primary income earners for their families and unemployment resulting from the failure of their employers to provide accommodations in the workplace is an outcome that families cannot afford to endure; and

(c) By remaining employed, pregnant women continue to provide economic security for their families, which in turn provides an economic benefit to the economy of this State.

2. *The Legislature further finds and declares that it is the intent of the Legislature to fight against discrimination based on pregnancy, childbirth or a related medical condition, promote public health and ensure that women realize full and equal participation in the workforce by requiring employers to provide reasonable accommodations to employees who are pregnant, have given birth or have a related medical condition.*

Sec. 5. 1. *Except as otherwise provided in subsections 2 and 3, it is an unlawful employment practice for an employer to:*

(a) Refuse to provide a reasonable accommodation to a female employee or applicant for employment upon request of the employee or applicant, as applicable, for a condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition, unless the accommodation would impose an undue hardship on the business of the employer as determined pursuant to section 7 of this act;

(b) Take an adverse employment action against a female employee because the employee requests or uses a reasonable accommodation for a condition of the employee relating to pregnancy, childbirth or a related medical condition

which may include, without limitation, refusing to promote the employee, requiring the employee to transfer to another position, refusing to reinstate the employee to the same or an equivalent position upon return to work or taking any other action which affects the terms or conditions of employment in a manner which is not desired by the employee;

(c) Deny an employment opportunity to an otherwise qualified female employee or applicant for employment based on the need of the employee or applicant, as applicable, for a reasonable accommodation for a condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition;

(d) Require a female employee or applicant for employment who is affected by a condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition to accept an accommodation that the employee or applicant did not request or chooses not to accept; and

(e) Require a female employee who is affected by a condition of the employee relating to pregnancy, childbirth or a related medical condition to take leave from employment if a reasonable accommodation for any such condition of the employee is available that would allow the employee to continue to work.

2. *It is not an unlawful employment practice for an employer take an action set forth in this section if the action is based upon a bona fide occupational qualification.*

3. *An employer who is a contractor licensed pursuant to chapter 624 of NRS is not subject to:*

(a) The requirements of this section with regard to a request of a female employee to provide a reasonable accommodation if the requested accommodation is to provide a place, other than a bathroom, where the employee may express breast milk and the employee is performing work at a construction job site that is located more than 3 miles from the regular place of business of the employer; or

(b) The requirements of paragraph (d) or (e) of subsection 1 with regard to a female employee who is affected by a condition of the employee relating to pregnancy, childbirth or a related medical condition if the work duties of the employee include the performance of manual labor.

4. *An employer who is a contractor licensed pursuant to chapter 624 of NRS is encouraged to provide a reasonable accommodation described in paragraph (a) of subsection 3 to the extent practicable.*

5. *An employer may require a female employee to provide an explanatory statement from the employee's physician concerning the specific accommodation recommended by the physician for the employee.*

6. *This section must not be construed to preempt, limit, diminish or otherwise affect any other provision of law relating to discrimination on the basis of sex or pregnancy.*

Sec. 6. 1. *If a female employee requests an accommodation for a condition of the employee relating to pregnancy, childbirth or a related*

medical condition, the employer and employee must engage in a timely, good faith and interactive process to determine an effective, reasonable accommodation for the employee. An accommodation may consist of a change in the work environment or in the way things are customarily carried out that allows the employee to have equal employment opportunities, including the ability to perform the essential function of the position and to have benefits and privileges of employment that are equal to those available to other employees.

2. A reasonable accommodation provided by an employer to a female applicant for employment which is based on a condition of the applicant relating to pregnancy, childbirth or a related medical condition may consist of a modification to the application process or the manner in which things are customarily carried out that allows the applicant to be considered for employment or hired for a position.

3. A reasonable accommodation pursuant to this section may include, without limitation:

- (a) Modifying equipment or providing different seating;*
- (b) Revising break schedules, which may include revising the frequency or duration of breaks;*
- (c) Providing space in an area other than a bathroom that may be used for expressing breast milk;*
- (d) Providing assistance with manual labor ~~+++~~ if the manual labor is incidental to the primary work duties of the employee;*
- (e) Authorizing light duty;*
- (f) Temporarily transferring the employee to a less strenuous or hazardous position; or*
- (g) Restructuring a position or providing a modified work schedule.*

4. An employer is not required by this section or section 5 of this act to:

- (a) Create a new position that the employer would not have otherwise created, unless the employer has created or would create such a position to accommodate other classes of employees; or*
- (b) Discharge any employee, transfer any employee with more seniority or promote any employee who is not qualified to perform the job, unless the employer has taken or would take such an action to accommodate other classes of employees.*

Sec. 7. 1. If a female employee or applicant for employment makes a prima facie showing that the employee or applicant requested a reasonable accommodation for a condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition and the employer refused to provide or attempt to provide the reasonable accommodation, the burden of proof shifts to the employer to demonstrate that providing such an accommodation would impose an undue hardship on the business of the employer.

2. *To prove such an undue hardship, the employer must demonstrate that the accommodation is significantly difficult to provide or expensive considering, without limitation:*

- (a) The nature and cost of the accommodation;*
- (b) The overall financial resources of the employer;*
- (c) The overall size of the business of the employer with respect to the number of employees and the number, type and location of the available facilities; and*
- (d) The effect of the accommodation on the expenses and resources of the employer or the effect of the accommodation on the operations of the employer.*

3. *Evidence that the employer provides or would be required to provide a similar accommodation to a similarly situated employee or applicant for employment creates a rebuttable presumption that the accommodation does not impose an undue hardship on the employer.*

Sec. 8. 1. *An employer shall provide a written or electronic notice to employees that they have the right to be free from discriminatory or unlawful employment practices pursuant to NRS 613.335 and sections 2 to 8, inclusive, of this act. The notice must include a statement that a female employee has the right to a reasonable accommodation for a condition of the employee relating to pregnancy, childbirth or a related medical condition.*

2. *An employer shall provide the notice required pursuant to subsection 1:*

- (a) To a new employee upon commencement of employment; and*
- (b) Within 10 days after an employee notifies the employee's immediate supervisor that the employee is pregnant.*

3. *An employer shall post the notice required pursuant to subsection 1 in a conspicuous place at the place of business of the employer that is located in an area which is accessible to employees.*

Sec. 9. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, *and sections 2 to 8, inclusive, of this act*, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

- (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;
- (b) A record of such an impairment; or
- (c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

- (a) The United States or any corporation wholly owned by the United States.
- (b) Any Indian tribe.
- (c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

6. "Person" includes the State of Nevada and any of its political subdivisions.

7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 10. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.435, inclusive, *and sections 2 to 8, inclusive, of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.435, inclusive, *and sections 2 to 8, inclusive, of this act* concerning unlawful employment practices related to sexual orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 11. NRS 613.335 is hereby amended to read as follows:

613.335 If an employer grants leave with pay, leave without pay, or leave without loss of seniority to his or her employees for sickness or disability because of a medical condition, it is an unlawful employment practice to fail or refuse to extend the same benefits to any female employee ~~who is pregnant~~ *for a condition of the employee relating to pregnancy, childbirth or a related medical condition*. The female employee who is pregnant must be allowed to use the leave before and after childbirth, miscarriage or other natural resolution of her pregnancy, if the leave is granted, accrued or allowed to accumulate as a part of her employment benefits.

Sec. 12. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435, inclusive, *and sections 2 to 8, inclusive, of this*

act, or because he or she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive ~~and~~, *and sections 2 to 8, inclusive, of this act.*

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 13. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in those instances where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to

classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.435, inclusive, *and sections 2 to 8, inclusive, of this act* as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

Sec. 14. NRS 613.390 is hereby amended to read as follows:

613.390 Nothing contained in NRS 613.310 to 613.435, inclusive, *and sections 2 to 8, inclusive, of this act* applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

Sec. 15. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice ~~[within]~~ :

1. *Within the scope of NRS 613.310 to 613.435, inclusive, and sections 2 to 8, inclusive, of this act* may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

2. *Within the scope of NRS 613.335 and sections 2 to 8, inclusive, of this act* may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on an employer's failure to comply with the provisions of NRS 613.335 and sections 2 to 8, inclusive, of this act.

Sec. 16. NRS 613.420 is hereby amended to read as follows:

613.420 If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and sections 2 to 8, inclusive, of this act* has occurred, any person alleging such a practice may apply to the district court for an order granting or restoring to that person the rights to which the person is entitled under those sections.

Sec. 17. NRS 233.140 is hereby amended to read as follows:

233.140 The Commission shall:

1. Foster mutual understanding and respect among all racial, religious, disabled and ethnic groups and between the sexes in the State.

2. Aid in securing equal health and welfare services and facilities for all the residents of the State without regard to race, religion, sex, age, disability or nationality.

3. Study problems arising between groups within the State which may result in tensions, discrimination or prejudice because of race, color, creed, sex, age, disability, national origin or ancestry, and formulate and carry out programs of education and disseminate information with the object of discouraging and eliminating any such tensions, prejudices or discrimination.

4. Secure the cooperation of various racial, religious, disabled, nationality and ethnic groups, veterans' organizations, labor organizations, business and industry organizations and fraternal, benevolent and service groups, in educational campaigns devoted to the need for eliminating group prejudice, racial or area tensions, intolerance or discrimination.

5. Cooperate with and seek the cooperation of federal and state agencies and departments in carrying out projects within their respective authorities to eliminate intergroup tensions and to promote intergroup harmony.

6. *Develop and carry out programs of education and disseminate information as necessary to inform employers, employees, employment agencies and job applicants about their rights and responsibilities set forth in NRS 613.335 and sections 2 to 8, inclusive, of this act.*

Sec. 18. NRS 233.150 is hereby amended to read as follows:

233.150 The Commission may:

1. Order its Administrator to:

(a) With regard to public accommodation, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, national origin, ancestry or gender identity or expression and may conduct hearings with regard thereto.

(b) With regard to housing, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto.

(c) With regard to employment, investigate ~~tensions,~~ :

(1) *Tensions*, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto ~~{-}~~ ; and

(2) *Any unlawful employment practice by an employer pursuant to the provisions of NRS 613.335 and sections 2 to 8, inclusive, of this act, and may conduct hearings with regard thereto.*

2. Mediate between or reconcile the persons or groups involved in those tensions, practices and acts.

3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any investigations or hearings conducted by the Commission.

4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.

5. Adopt reasonable regulations necessary for the Commission to carry out the functions assigned to it by law.

Sec. 19. 1. An employer shall provide the written notice required pursuant to section 8 of this act to existing employees of the employer to inform the employees of the rights that will become effective on October 1, 2017.

2. As used in this section, "employer" has the meaning ascribed to it in NRS 613.310.

Sec. 20. This act becomes effective:

1. Upon passage and approval for the purpose of providing the notice required pursuant to section 19 of this act; and

2. On October 1, 2017, for all other purposes.

Senator Atkinson moved that the Senate concur in Assembly Amendment No. 800 to Senate Bill No. 253.

Remarks by Senator Atkinson.

Amendment No. 800 to Senate Bill No. 253 adds Senator Hardy's name to the bill.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 370.

The following Assembly amendment was read:

Amendment No. 837.

SUMMARY—Revises provisions governing the transportation of game, hunters and hunting equipment. (BDR 45-206)

AN ACT relating to hunting; ~~{making it unlawful to use an aircraft to transport game, hunters or hunting equipment under certain circumstances;}~~ requiring certain airports, airplane landing fields or heliports used in the transportation of game, hunters or hunting equipment to be accessible by a public road; ~~{providing a penalty;}~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it unlawful to use a helicopter to transport game, hunters or hunting equipment except when: (1) the cargo or passengers are loaded and unloaded at an airport, airplane landing field or heliport which has been established by a department or agency of the Federal or State Government or by a county or municipal government; or (2) the loading or unloading is done in the course of an emergency or search and rescue operation. (NRS 503.010) A person who violates those provisions is guilty of a misdemeanor. (NRS 501.385) This bill ~~expands existing law by making it unlawful to use any aircraft to transport game, hunters or hunting equipment except under those circumstances. This bill also~~ requires any airport, airplane landing field or heliport used to transport game, hunters or hunting equipment to be accessible by a public road.

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

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

503.010 1. Except as otherwise provided in this section or subsection 2 of NRS 503.005, it is unlawful to harass any game mammals or game birds with an aircraft, helicopter or motor-driven vehicle, including a motorboat or sailboat.

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

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

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

5. It is unlawful to use a helicopter ~~for any other aircraft~~ to transport game, hunters or hunting equipment, except when ~~the~~ :

(a) *The* cargo or passengers, or both, are loaded and unloaded at airports, airplane landing fields or heliports, which have been established by a department or agency of the Federal or State Government or by a county or municipal government *and which are accessible by a public road*; or ~~when the~~

(b) *The* loading or unloading is done in the course of an emergency or search and rescue operation.

6. It is unlawful to:

(a) Use any information obtained from a radio signal or other transmission received from any transmitting device;

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

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

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

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

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

9. As used in this section:

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

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

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

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

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

Senator Cancela moved that the Senate concur in Assembly Amendment No. 837 to Senate Bill No. 370.

Remarks by Senator Cancela.

Amendment No. 837 to Senate Bill No. 370 removes language referencing "other aircraft," thereby limiting the scope of the bill to helicopter transports.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 371.

The following Assembly amendment was read:

Amendment No. 838.

SUMMARY—Establishes provisions governing the care of an animal which has been impounded. (BDR 14-153)

AN ACT relating to animals; authorizing a county to recover the reasonable cost of care and shelter furnished to an animal impounded by the county under certain circumstances; authorizing a county to take certain other actions relating to an impounded animal; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county to enact ordinances: (1) governing the control and protection of animals; (2) regulating or prohibiting the running at large and disposal of animals; and (3) prohibiting cruelty to animals. (NRS 244.189, 244.359) Section 2 of this bill expands existing law by providing that, if a person is lawfully arrested and detained in a county for more than 7 days, and if the county impounds any animal owned or possessed by the person, the county must: (1) notify the person of the impoundment and request that the person provide to the county the name of any person who is authorized to care for the animal; (2) transfer, under certain circumstances, the animal to any such person; and (3) if the county is unable to transfer the animal to such a person, allow ~~for~~ another person to care for the animal temporarily and, with the consent of the person who is arrested and detained, adopt the animal. Section 2 also authorizes, under certain circumstances, the county to bring an appropriate legal action to recover the reasonable cost of care and shelter of the animal.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a person is lawfully arrested and detained in a county for more than 7 days, and if any animal owned or possessed by the person is impounded by the county after the arrest, the county must notify the person of the impoundment of the animal and request that the person provide to the county the name of any person who is authorized to care for the animal. The county must transfer the animal to such a person if the county determines that the person is able to provide adequate care and shelter to the animal. If there is no authorized person who is able to provide adequate care and shelter to the animal, the county may allow another person who is able to provide adequate care and shelter to care for the animal temporarily and, with the consent of the person who is arrested and detained, allow the other person to adopt the animal.*

2. *If a person is convicted of the crime for which he or she was lawfully arrested, the county may by appropriate legal action recover the reasonable cost of any care and shelter furnished to the animal by the county, including, without limitation, imposing a lien on the animal for the cost of such care and shelter.*

3. *As used in this section, "animal" means any dog, cat, horse or other domesticated animal. The term :*

(a) Includes any chicken, pig, rabbit or other domesticated animal which is maintained as a pet.

(b) Except as otherwise provided in paragraph (a), does not include any cattle, sheep, goats, swine or poultry.

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

Senator Cancela moved that the Senate concur in Assembly Amendment No. 838 to Senate Bill No. 371.

Remarks by Senator Cancela.

Assembly Amendment No 838 to Senate Bill No. 371 clarifies that the counties may make arrangements for temporary care of an animal owned by a person who has been arrested and detained; provides adoption of such an animal may only occur with the permission of the owner, and clarifies that animal, as defined in the bill, includes any domesticated animal kept as a pet.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 383.

The following Assembly amendment was read:

Amendment No. 813.

SUMMARY—Revises provisions governing financial planners. (BDR 54-1150)

AN ACT relating to financial planners; ~~revising the definition of "financial planner" for certain purposes;~~ imposing a fiduciary duty on broker-dealers, sales representatives and investment advisers who for compensation advise other persons concerning the investment of money; authorizing the Administrator of the Securities Division of the Office of the Secretary of State to adopt regulations concerning such fiduciary duty; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) defines a "financial planner" as a person who for compensation, among other activities, advises others as to the investment of money, but excludes certain persons from the definition; (2) provides that a financial planner has the duty of a fiduciary toward a client; and (3) provides for civil liability of a financial planner under certain circumstances. (Chapter 628A of NRS) Section 1 of this bill revises the definition of financial planner to remove the exclusions for a broker-dealer ~~and~~ a sales representative and an investment adviser, thereby making such persons subject to the provisions of existing law governing financial planners. Section 1.3 of this bill provides that the requirement for a financial planner to maintain certain insurance or a surety bond does not apply to broker-dealers, sales representatives and investment advisers included in the definition of "financial planner" pursuant to section 1.

Existing law provides that certain persons defined as a financial planner must be licensed as insurance consultants for certain purposes related to viatical settlements. (NRS 688C.212) Section 2 of this bill maintains the existing definition of financial planner for such purposes.

Existing law generally provides that the Administrator of the Securities Division of the Office of the Secretary of State licenses and regulates broker-dealers, sales representatives, investment advisers and representatives of investment advisers. (Chapter 90 of NRS) If a person violates a provision of law administered by the Administrator, the Administrator may impose certain sanctions on that person, including, without limitation, the imposition of a civil penalty of not more than \$25,000 for a willful violation of such a provision of law. (NRS 90.630, 90.640) Section 1.7 of this bill: (1) enacts a provision to enable the Administrator to enforce the fiduciary duty imposed on broker-dealers, sales representatives, investment advisers and representatives of investment advisers pursuant to section 1; and (2) authorizes the Administrator to adopt regulations defining or excluding acts, practices or courses of business as violations of that fiduciary duty and prescribing means to prevent violations of that fiduciary duty.

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

Section 1. NRS 628A.010 is hereby amended to read as follows:

628A.010 As used in this chapter, unless the context otherwise requires:

1. "Client" means a person who receives advice from a financial planner.
2. "Compensation" means a fee for services provided by a financial planner to a client or a commission or other remuneration derived by a financial planner from a person other than the client as the result of the purchase of a good or service by the client.
3. "Financial planner" means a person who for compensation advises others upon the investment of money or upon provision for income to be needed in the future, or who holds himself or herself out as qualified to perform either of these functions, but does not include:
 - (a) An attorney and counselor at law admitted by the Supreme Court of this State;
 - (b) A certified public accountant or a public accountant licensed pursuant to NRS 628.190 to 628.310, inclusive, or 628.350; *or*
 - (c) ~~{A} broker-dealer or sales representative licensed pursuant to NRS 90.310 or exempt under NRS 90.320; or~~
 - ~~(d) An investment adviser licensed pursuant to NRS 90.330 or exempt under NRS 90.340; or~~
 - ~~(e)}~~ A producer of insurance licensed pursuant to chapter 683A of NRS or an insurance consultant licensed pursuant to chapter 683C of NRS,
 - ↳ whose advice upon investment or provision of future income is incidental to the practice of his or her profession or business.

Sec. 1.3. NRS 628A.040 is hereby amended to read as follows:

628A.040 ~~{A}~~

1. Except as otherwise provided in subsection 2, a financial planner shall maintain insurance covering liability for errors or omissions, or a surety bond to compensate clients for losses actionable pursuant to this chapter, in an amount of \$1,000,000 or more.

2. The provisions of subsection 1 do not apply to:

(a) A broker-dealer or sales representative licensed pursuant to NRS 90.310 or exempt under NRS 90.320; or

(b) An investment adviser licensed pursuant to NRS 90.330 or exempt under NRS 90.340.

Sec. 1.7. Chapter 90 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A broker-dealer, sales representative, investment adviser or representative of an investment adviser shall not violate the fiduciary duty toward a client imposed by NRS 628A.020.

2. The Administrator may by regulation:

(a) Define or exclude an act, practice or course of business of a broker-dealer, sales representative, investment adviser or representative of an investment adviser as a violation of the fiduciary duty toward a client imposed by NRS 628A.020; and

(b) Prescribe means reasonably designed to prevent broker-dealers, sales representatives, investment advisers and representatives of investment advisers from engaging in acts, practices and courses of business defined as a violation of such fiduciary duty.

Sec. 2. NRS 688C.212 is hereby amended to read as follows:

688C.212 1. A financial planner ~~[, as defined in subsection 3 of NRS 628A.010,]~~ who, on behalf of a viator and for a fee, commission or other valuable consideration not paid by a provider or purchaser of viatical settlements, offers or attempts to negotiate a viatical settlement between the viator and one or more providers or brokers of viatical settlements must be licensed as an insurance consultant pursuant to NRS 683C.020.

2. As used in this section, "financial planner" means a person who for compensation advises others upon the investment of money or upon provision for income to be needed in the future, or who holds himself or herself out as qualified to perform either of these functions, but does not include:

(a) An attorney and counselor at law admitted by the Supreme Court of this State;

(b) A certified public accountant or a public accountant licensed pursuant to NRS 628.190 to 628.310, inclusive, or 628.350;

(c) A broker-dealer or sales representative licensed pursuant to NRS 90.310 or exempt under NRS 90.320;

(d) An investment adviser licensed pursuant to NRS 90.330 or exempt under NRS 90.340; or

(e) A producer of insurance licensed pursuant to chapter 683A of NRS or an insurance consultant licensed pursuant to chapter 683C of NRS,

↳ whose advice upon investment or provision of future income is incidental to the practice of his or her profession or business.

Sec. 3. This act becomes effective on July 1, 2017.

Senator Atkinson moved that the Senate concur in Assembly Amendment No. 813 to Senate Bill No. 383.

Remarks by Senator Atkinson.

The amendment makes several changes in the act. It imposes a fiduciary duty on broker-dealers, sales representatives and investment advisers who are for-compensation advisers for other persons concerning the investment of money. Section 1.3 makes changes to the legislative digest. The amendment also provides for the administrator of the Security Division Office of the Secretary of State to adopt regulations concerning such fiduciary duties.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 420.

The following Assembly amendment was read:

Amendment No. 747.

SUMMARY—Revises provisions governing pupil publications in public schools and student publications in the Nevada System of Higher Education. (BDR 34-776)

AN ACT relating to education; requiring the board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils to adopt a written policy relating to the distribution of and right of expression for pupils working as journalists on pupil publications; requiring the Board of Regents of the University of Nevada to adopt a similar policy for student publications; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that each pupil of a public school, including a pupil enrolled in a charter school or a university school for profoundly gifted pupils, is entitled to express himself or herself in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution. (NRS 388.077) Section 1 of this bill requires the board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils to adopt a written policy for pupil publications which: (1) establishes reasonable provisions governing the time, place and manner for the distribution of those publications; (2) protects the right of expression for pupils working on those publications as journalists; (3) prohibits restrictions on the publication of any content in a pupil publication unless the content would substantially disrupt the performance of the school's educational mission ~~for taking certain adverse actions against a pupil or adviser relating to pupil publications; (4) includes procedures for disciplining pupils, and persons acting as advisers on pupil publications who violate the policy; and (5)] ; and (4) includes a disclaimer indicating that any content published in a pupil publication is not endorsed by the public school. Section 2 of this bill requires the Board of Regents of the University of Nevada to adopt a similar written policy for student publications. [In addition, section 1 requires the written policy for pupil publications adopted by the board of trustees of a school district, the governing body of a~~

~~charter school or the governing body of a university school for profoundly gifted pupils to include procedures for determining before publication whether any content would substantially disrupt the performance of the school's educational mission.]~~

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

Section 1. NRS 388.077 is hereby amended to read as follows:

388.077 1. Each pupil of a public school, including, without limitation, each pupil of a university school for profoundly gifted pupils, is entitled to express himself or herself in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution.

2. Any expression described in subsection 1 must not be disruptive of instruction at a public school, including, without limitation, a university school for profoundly gifted pupils, must not be used to ~~[bully]~~ engage in bullying or cyber-bullying or intimidate any person and must not be organized, broadcast or endorsed by a public school, including, without limitation, a university school for profoundly gifted pupils.

3. *The board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils shall adopt a written policy for pupil publications which:*

(a) Establishes reasonable provisions governing the time, place and manner for the distribution of pupil publications;

(b) Protects the right of expression described in subsection 1 for pupils working on pupil publications as journalists in their determination of the news, opinions, feature content, advertising content and other content of the pupil publications;

~~*(c) Includes procedures for determining before publication whether the content would substantially disrupt the ability of the public school to perform its educational mission if published in a pupil publication;*~~

~~*(d) Includes procedures for disciplining a pupil, employee or other person acting as an adviser for a pupil publication or as an adviser of pupils working as journalists on a pupil publication who violates the policy;*~~

~~*(e)*~~ Prohibits, without limitation, the following:

(1) Restricting the publication of any content in pupil publications unless the content would substantially disrupt the ability of the public school to perform its educational mission;

(2) Dismissing, suspending, disciplining or retaliating against an employee or other person acting as an adviser for a pupil publication or as an adviser for pupils working as journalists on a pupil publication for acting within the scope of that position, including, without limitation, taking responsible and appropriate action to protect a pupil engaged in conduct protected pursuant to the written policy or refusing to perform an action which violates the written policy; and

(3) *Expelling, suspending or otherwise disciplining a pupil for engaging in conduct in accordance with the policy, ~~even if~~ unless such conduct substantially disrupts the ability of the public school to perform its educational mission ~~and the disruption was intentional~~; and*

~~((f))~~ *(d) Includes a disclaimer indicating that any content published in a pupil publication is not endorsed by the public school.*

4. The board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils ~~must~~ shall adopt a policy prescribing procedures for the resolution of a complaint by a pupil of the school district, charter school or university school for profoundly gifted pupils that the rights of the pupil described in subsection 1 or 3 have been violated. The policy required by this subsection may be part of a comprehensive discrimination grievance policy of the school district, charter school or university school for profoundly gifted pupils or may be a separate policy.

5. *As used in this section:*

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

Sec. 2. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board of Regents shall adopt a written policy for the Universities, state colleges and community colleges within the System for student publications which:

1. *Establishes reasonable provisions governing the time, place and manner for the distribution of student publications;*

2. *Protects the right of expression in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution for students working on student publications as journalists in their determination of the news, opinions, feature content, advertising content and other content of the student publications;*

3. ~~*Includes procedures for disciplining a student, faculty member, employee or other person acting as an adviser for a student publication or as an adviser for students working as journalists on a student publication who violates the policy;*~~

~~4.~~ *Prohibits, without limitation, the following:*

(a) Restricting the publication of any content in student publications unless the content would substantially disrupt the ability of the institution to perform its educational mission;

(b) Dismissing, suspending, disciplining or retaliating against a faculty member, employee or other person acting as an adviser for a student publication or as an adviser to students working as journalists on a student publication for acting within the scope of that position, including, without limitation, taking responsible and appropriate action to protect a student engaged in conduct protected pursuant to the written policy or refusing to perform an action which violates the written policy; and

(c) *Expelling, suspending or otherwise disciplining a student for engaging in conduct in accordance with the policy, ~~even if~~ unless such conduct substantially disrupts the ability of the institution to perform its educational mission ~~if~~ and the disruption was intentional; and*

~~5.1~~ 4. *Includes a disclaimer indicating that any content published in a student publication is not endorsed by the Board of Regents, the System or a university, state college or community college within the System.*

Sec. 3. ~~[This act becomes effective on July 1, 2017.] (Deleted by amendment.)~~

Senator Denis moved that the Senate concur in Assembly Amendment No. 747 to Senate Bill No. 420.

Remarks by Senator Denis.

Senate Bill No. 420 provides that the Director of the Department of Corrections may establish a charge on the use of approved videoconferencing equipment by offenders in order to defray the costs relating to the operation and maintenance of the equipment, but prohibits the Director from charging an inmate for the use of such equipment in order to communicate with his or her child.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 437.

The following Assembly amendment was read:

Amendment No. 732.

SUMMARY—Revises provisions relating to physical therapy. (BDR 54-483)

AN ACT relating to physical therapy; changing the name of the State Board of Physical Therapy Examiners to the Nevada Physical Therapy Board; authorizing the Board to appoint nonvoting advisory members to the Board; authorizing the Board to issue citations for certain violations; changing the designation of physical therapists' assistants and physical therapists' technicians; revising the membership and duties of the Board; requiring the Board to elect certain officers annually; amending provisions governing the supervision and authorized activities of physical therapist technicians; revising provisions governing the supervision of physical therapist assistants; exempting certain providers of health care from the provisions governing the practice of physical therapy; revising terminology concerning the education of physical therapists and physical therapist assistants; combining similar provisions governing physical therapists and physical therapist assistants; authorizing the licensure by endorsement of physical therapist assistants; removing the requirement that the Board administer an examination to applicants for a license as a physical therapist; revising provisions prohibiting the use of certain names, titles and initials related to the practice of physical therapy; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the State Board of Physical Therapy Examiners to regulate physical therapists and physical therapist assistants. (NRS 640.030) Section 29 of this bill repeals the requirement of existing law that the Board itself examine applicants for licensure as physical therapists, but sections 10 and 23 of this bill leave in place existing requirements that applicants for licensure as physical therapists or physical therapist assistants pass an examination designated by the Board. (NRS 640.080, 640.230) Section 1.5 of this bill changes the name of the Board to the Nevada Physical Therapy Board to reflect that the Board no longer administers, but merely designates, the examinations.

Sections 1.2 and 4 of this bill authorize the Board to appoint nonvoting advisory members. Additionally, section 4: (1) revises the membership of the Board to include a physical therapist assistant; and (2) clarifies that the Board is subject to the provisions of law governing meetings of public bodies. Section 5 of this bill requires the Board to elect new officers annually and specifies the officers whom the Board is required to elect. Section 6 of this bill clarifies that only voting members of the Board are entitled to compensation. Section 7 of this bill revises the duties of the Board. Section 9 of this bill removes a requirement that the Board deposit administrative fines with the State Treasurer for credit in the State General Fund and instead requires the Board to deposit such fines directly in the State General Fund.

Existing law authorizes the Board to impose disciplinary action, after notice and a hearing, against a licensee who commits certain violations. (NRS 640.160) Section 1.3 of this bill authorizes the Board to issue a citation for certain violations of statute or regulation. Section 1.4 of this bill allows a person to whom a citation has been issued to contest the citation in a hearing conducted according to the provisions of law governing contested cases.

Existing law exempts from the law governing the licensure and regulation of physical therapists an occupational therapist, occupational therapy assistant and athletic trainer who is licensed to practice his or her profession in this State, practices within the scope of his or her profession and does not represent that he or she is a physical therapist or physical therapist assistant or is practicing physical therapy. (NRS 640.029) Section 3 of this bill extends this exemption to any provider of health care who is licensed to practice his or her profession in this State, who acts within the scope of his or her profession and who does not represent that he or she is a physical therapist or physical therapist assistant or is practicing physical therapy.

Existing law authorizes the Board to adopt regulations concerning treatments and other regulated procedures which may be performed by a physical therapist technician. (NRS 640.050) A physical therapist must provide immediate supervision of a physical therapist technician while the technician performs treatments related to physical therapy. (NRS 640.310) Sections 7 and 26 of this bill instead require the Board to adopt regulations prescribing the activities that a physical therapist technician may perform only

under the immediate supervision of a physical therapist. Section 1.6 of this bill clarifies that a physical therapist who is supervising a physical therapist technician must be present on-site.

Section 1.7 of this bill clarifies the definition of the term "physical therapist." Sections 1.8, 1.9, 2.5-4, 7, 18, 19, 21 and 23-26 of this bill standardize the terminology used to refer to physical therapist assistants and physical therapist technicians.

Existing law requires an applicant for a license as a physical therapist or physical therapist assistant to have completed an educational curriculum approved by the Board. (NRS 640.080, 640.230) Sections 10 and 23 of this bill instead require the applicant to have completed a program of professional education for physical therapists or physical therapist assistants, as applicable, that has been approved by the Board.

Existing law provides similar procedures for licensing physical therapists and physical therapist assistants. (NRS 640.090-640.110, 640.150, 640.250-640.270, 640.280) Existing law also authorizes a person to: (1) obtain a temporary license to practice as a physical therapist or physical therapist assistant to assist in a medical emergency without examination; and (2) work without a license under the supervision of a physical therapist while satisfying clinical education requirements. (NRS 640.120, 640.275) Sections 11-14, 17 and 29 of this bill combine and remove the duplication of those provisions.

Existing law prescribes the requirements for licensure by endorsement of a physical therapist who is licensed in another state. (NRS 640.145, 640.146) Sections 15 and 16 of this bill extend those provisions to physical therapist assistants. Section 29 repeals duplicative provisions authorizing the Board to license without examination a physical therapist or physical therapist assistant who is licensed in another state.

Existing law provides that a person who does not hold a license issued by the Board is guilty of a misdemeanor if he or she practices physical therapy or holds himself or herself out as a physical therapist or physical therapist assistant. (NRS 640.169, 640.170, 640.175) Section 20 of this bill provides that a business entity that holds itself out as providing services constituting the practice of physical therapy is guilty of a misdemeanor unless those services are provided by or under the supervision of a licensed physical therapist. Sections 20 and 21 of this bill further authorize the Board to impose certain penalties on a person who violates this provision, including, without limitation, an administrative penalty of not more than \$5,000. Finally, sections 20 and 21 require physical therapists and physical therapist assistants to use a certain designation.

Existing law authorizes the Board to seek an injunction in district court against a person who has engaged or is about to engage in an act that violates or will violate a provision of existing law governing physical therapists. (NRS 640.210) Section 22 of this bill provides that if the Board is seeking an injunction against a person improperly holding himself or herself out as a licensed physical therapist or physical therapist assistant or as practicing

physical therapy, the Board must only show that the person violated existing law to establish that immediate and irreparable injury, loss or damage will result from the person's continued action.

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

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means:

- (a) A physician licensed pursuant to chapter 630, 630A or 633 of NRS;
- (b) A physician assistant;
- (c) A dentist;
- (d) A licensed nurse;
- (e) A person who holds a license as an attendant or who is certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS;
- (f) A dispensing optician;
- (g) An optometrist;
- (h) A speech-language pathologist;
- (i) An audiologist;
- (j) A practitioner of respiratory care;
- (k) A ~~registered~~ licensed physical therapist;
- (l) An occupational therapist;
- (m) A podiatric physician;
- (n) A licensed psychologist;
- (o) A licensed marriage and family therapist;
- (p) A licensed clinical professional counselor;
- (q) A music therapist;
- (r) A chiropractor;
- (s) An athletic trainer;
- (t) A perfusionist;
- (u) A doctor of Oriental medicine in any form;
- (v) A medical laboratory director or technician;
- (w) A pharmacist;
- (x) A licensed dietitian;
- (y) An associate in social work, a social worker, an independent social worker or a clinical social worker licensed pursuant to chapter 641B of NRS;
- (z) An alcohol and drug abuse counselor or a problem gambling counselor who is certified pursuant to chapter 641C of NRS;
- (aa) An alcohol and drug abuse counselor or a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS; or
- (bb) A medical facility as the employer of any person specified in this subsection.

2. For the purposes of NRS 629.051, 629.061, 629.065 and 629.077, the term includes a facility that maintains the health care records of patients.

3. For the purposes of NRS 629.400 to 629.490, inclusive, the term includes:

(a) A person who holds a license or certificate issued pursuant to chapter 631 of NRS; and

(b) A person who holds a current license or certificate to practice his or her respective discipline pursuant to the applicable provisions of law of another state or territory of the United States.

Sec. 1.1. Chapter 640 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2, 1.3 and 1.4 of this act.

Sec. 1.2. *The Board may, by majority vote, select any person, including, without limitation, a physical therapist or physical therapist assistant, to serve as an advisory member of the Board. The Board shall prescribe the term and duties of any advisory member it selects pursuant to this section. An advisory member may not vote on any matter before the Board. Advisory members serve without compensation.*

Sec. 1.3. 1. *After conducting an inspection pursuant to NRS 640.050, a member or agent of the Board may issue a citation to a licensee if the member or agent concludes that, based on a preponderance of the evidence, the licensee has violated:*

(a) Subsection 3 of NRS 640.110;

(b) Any regulation of the Board that requires a licensee to provide his or her address to the Board, display his or her license or a copy thereof, practice only under the name listed on his or her license or document in the record of a patient any treatment provided to the patient; or

(c) Any regulation of the Board establishing requirements for the supervision of an unlicensed person by a physical therapist or limiting the number of persons who may be supervised by a physical therapist.

2. *A citation issued pursuant to this section may include, without limitation, an order to:*

(a) Take action to correct any condition resulting from any act that constitutes a violation of a provision set forth in subsection 1, at the cost of the person who committed the violation. If the citation contains such an order, the citation must:

(1) State the time permitted for compliance, which must be not less than 5 business days after the date the person receives the citation; and

(2) Specifically describe the corrective action to be taken.

(b) Pay an administrative fine not to exceed the amount prescribed pursuant to subsection 3.

(c) Reimburse the Board for any expenses incurred to investigate the violation, in an amount not to exceed \$150.

3. *Any administrative fine imposed pursuant to this section must be:*

(a) For a first violation, in the amount prescribed by regulation of the Board, which must be not less than \$100 or more than \$500;

(b) For a second violation, in the amount prescribed by regulation of the Board, which must be not less than \$250 or more than \$1,000; and

(c) *For a third violation and for each additional violation, in the amount determined by the Board after the licensee appears before the Board.*

4. *The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.*

Sec. 1.4. 1. *Except as otherwise provided in this subsection, to contest a citation issued pursuant to section 1.3 of this act, the person must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the citation. The Board may, for good cause shown, extend the time to submit a request for a hearing.*

2. *If the person to whom a citation is issued files a timely written request for a hearing to contest the citation:*

(a) *The Board shall provide notice of and conduct the hearing in accordance with this chapter and the provisions of chapters 233B and 622A of NRS governing the adjudication of contested cases.*

(b) *At the hearing, the licensee may contest, without limitation:*

(1) *The facts forming the basis for the determination that the licensee has committed an act which constitutes a violation of a provision described in section 1.3 of this act;*

(2) *The time allowed to take any corrective action ordered;*

(3) *The amount of any administrative fine ordered;*

(4) *The amount of any payment ordered to reimburse the Board for the expenses incurred to investigate the violation; and*

(5) *Whether any corrective action described in the citation is reasonable.*

3. *If a person to whom a citation is issued pursuant to section 1.3 of this act does not file timely a written request for a hearing to contest the citation, the citation shall be deemed a final order of the Board and any assessed fine deemed due and payable and any corrective action deemed required.*

4. *For the purposes of this section, a citation issued pursuant to section 1.3 of this act shall be deemed to have been received by a person:*

(a) *On the date on which the citation is personally delivered to the person;*
or

(b) *If the citation is mailed, 3 business days after the date on which the citation is mailed by certified mail to the last known business or residential address of the person.*

Sec. 1.5. NRS 640.013 is hereby amended to read as follows:

640.013 "Board" means the ~~{State Board of}~~ Nevada Physical Therapy ~~{Examiners.}~~ Board.

Sec. 1.6. NRS 640.016 is hereby amended to read as follows:

640.016 "Immediate supervision" means that a person is present *on-site* and immediately available within the treatment area to give aid, direction and instruction to the person he or she is supervising.

Sec. 1.7. NRS 640.021 is hereby amended to read as follows:

640.021 "Physical therapist" means a person who is licensed *as such* in accordance with the provisions of this chapter.

Sec. 1.8. NRS 640.0213 is hereby amended to read as follows:

640.0213 "Physical ~~{therapist's}~~ *therapist* assistant" means a person who assists in the practice of physical therapy under the supervision of a licensed physical therapist and who is licensed under the provisions of this chapter. ~~{The term is synonymous with "physical therapist assistant."}~~

Sec. 1.9. NRS 640.0216 is hereby amended to read as follows:

640.0216 "Physical ~~{therapist's}~~ *therapist* technician" means an unlicensed person who performs certain limited activities at the direction of the physical therapist.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 640.026 is hereby amended to read as follows:

640.026 "Supervising physical therapist" means a physical therapist who supervises a physical ~~{therapist's}~~ *therapist* assistant ~~{or}~~ , a physical ~~{therapist's}~~ *therapist* technician ~~{,}~~ , *a student who is completing a program for physical therapists or physical therapist assistants or a graduate of such a program.*

Sec. 3. NRS 640.029 is hereby amended to read as follows:

640.029 1. This chapter does not apply to ~~{an occupational therapist, occupational therapy assistant or athletic trainer}~~ *a provider of health care* who:

~~{1.}~~ (a) Is licensed to practice in this state;

~~{2.}~~ (b) Practices within the scope of that license; and

~~{3.}~~ (c) Does not use any letters, words or insignia listed in NRS 640.170 or 640.175 in connection with his or her name or otherwise represent that he or she is a physical therapist or physical ~~{therapist's}~~ *therapist* assistant, or that he or she practices physical therapy.

2. *As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 4. NRS 640.030 is hereby amended to read as follows:

640.030 1. The ~~{State Board of}~~ Nevada Physical Therapy ~~{Examiners,}~~ Board, consisting of five members appointed by the Governor, *and any nonvoting advisory members appointed by the Board pursuant to section 1.2 of this act,* is hereby created.

2. The Governor shall appoint:

(a) ~~{Four}~~ *Three* members who are licensed physical therapists in the State of Nevada.

(b) *One member who is a licensed physical therapist assistant in the State of Nevada.*

(c) One member who is a representative of the general public. This member must not be:

(1) A physical therapist ~~{,}~~ or a physical ~~{therapist's}~~ *therapist* assistant ; ~~{or a physical therapist's technician,}~~ or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a physical therapist ~~{,}~~ or a physical ~~{therapist's}~~ *therapist* assistant . ~~{or a physical therapist's technician.}~~

3. No member of the Board may serve more than two consecutive terms.

4. The Governor may remove any *voting* member of the Board for incompetency, neglect of duty, gross immorality or malfeasance in office.

5. A majority of the *voting* members of the Board constitutes a quorum.

6. No member of the Board may be held liable in a civil action for any act which he or she has performed in good faith in the execution of his or her duties under this chapter.

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

Sec. 5. NRS 640.035 is hereby amended to read as follows:

640.035 ~~[The]~~ *At the first meeting of each fiscal year, the Board shall elect a Chair [and other officers], a Vice Chair and a Secretary-Treasurer from among its members.*

Sec. 6. NRS 640.045 is hereby amended to read as follows:

640.045 1. Each *voting* member of the Board is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 7. NRS 640.050 is hereby amended to read as follows:

640.050 1. The Board shall ~~[examine and license qualified physical therapists and qualified physical therapist's assistants.]~~ :

(a) *Enforce the provisions of this chapter and any regulations adopted pursuant thereto;*

(b) *Evaluate the qualifications and determine the eligibility of an applicant for a license as a physical therapist or physical therapist assistant and, upon payment of the applicable fee, issue the appropriate license to a qualified applicant;*

(c) *Investigate any complaint filed with the Board against a licensee; and*

(d) *Unless the Board determines that extenuating circumstances exist, forward to the appropriate law enforcement agency any substantiated information submitted to the Board concerning a person who practices as a physical therapist or physical therapist assistant without a license.*

2. The Board may adopt reasonable regulations to carry this chapter into effect, including, but not limited to, regulations concerning the:

(a) Issuance and display of licenses.

(b) Supervision of physical ~~[therapist's]~~ *therapist* assistants and physical ~~[therapist's]~~ *therapist* technicians.

~~[(c) Treatments and other regulated procedures which may be performed by physical therapist's technicians.]~~

3. The Board shall ~~{keep}~~ *prepare and maintain* a record of its proceedings ~~{and a register of all persons licensed under the provisions of this chapter. The register must show:~~

- ~~— (a) The name of every living licensee.~~
- ~~— (b) The last known place of business and residence of each licensee.~~
- ~~— (c) The date and number of each license issued as a physical therapist or physical therapist's assistant.}, including, without limitation, any disciplinary proceedings.~~

4. ~~{During September of every year in which renewal of a license is required, the}~~ The Board shall ~~{compile}~~ *maintain* a list of licensed physical therapists authorized to practice physical therapy and physical ~~{therapist's}~~ *therapist* assistants licensed to assist in the practice of physical therapy in this State. ~~{Any interested person in the State may obtain a copy of the list upon application to the Board and the payment of such amount as may be fixed by the Board, which amount must not exceed the cost of the list so furnished.}~~

5. The Board may:

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

(b) Employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(c) Adopt a seal of which a court may take judicial notice.

6. Any member or agent of the Board may enter any premises in this State where a person who holds a license issued pursuant to the provisions of this chapter practices physical therapy or as a physical ~~{therapist's}~~ *therapist* assistant and inspect ~~{it}~~ *the premises* to determine whether a violation of any provision of this chapter *or any regulation adopted pursuant thereto* has occurred, including, without limitation, an inspection to determine whether any person at the premises is practicing physical therapy or as a physical ~~{therapist's}~~ *therapist* assistant without the appropriate license issued pursuant to the provisions of this chapter.

7. Any *voting* member of the Board may administer an oath to a person testifying in a matter that relates to the duties of the Board.

Sec. 8. NRS 640.060 is hereby amended to read as follows:

640.060 For the ~~{purpose}~~ *purposes* of NRS 640.080 ~~{,}~~ *and* 640.230, the Board shall approve any school or ~~{educational curriculum}~~ *program of professional education for physical therapists and physical therapist assistants* taught at a school if the school is accredited by an accrediting agency recognized by the Board.

Sec. 9. NRS 640.070 is hereby amended to read as follows:

640.070 1. All fees collected under this chapter must be deposited by the Board in banks, credit unions or savings and loan associations in the State of Nevada.

2. All expenses incident to the operation of this chapter must be paid from the revenue derived therefrom.

3. In a manner consistent with the provisions of chapter 622A of NRS, the Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter and impose and collect administrative fines therefor. If the Board so delegates its authority, the Board may deposit the money from the fines in banks, credit unions or savings and loan associations in this State for the support of the Board. In addition, the hearing officer or panel may assess a licensee against whom disciplinary action is taken any costs and fees incurred by the Board as a result of the hearing. The money from the reimbursed costs and fees may also be deposited for use by the Board.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3, the Board shall deposit the money collected from the imposition of administrative fines ~~[with the State Treasurer for credit to]~~ in the State General Fund. The Board may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 10. NRS 640.080 is hereby amended to read as follows:

640.080 Except as otherwise provided in NRS 640.145 and 640.146, to be eligible for licensure by the Board as a physical therapist, an applicant must:

1. Be of good moral character;
2. Have graduated from a school in which he or she completed a ~~[curriculum of]~~ *program of professional education for physical [therapy]* *therapists* approved by the Board; and
3. Pass to the satisfaction of the Board an examination designated by the Board, unless he or she is entitled to licensure without examination as provided in NRS 640.120 . ~~[or 640.140.]~~

Sec. 11. NRS 640.090 is hereby amended to read as follows:

640.090 1. Unless he or she is entitled to licensure under NRS 640.120, ~~[640.140.]~~ 640.145 or 640.146, a person who desires to be licensed as a physical therapist *or physical therapist assistant* must:

- (a) Apply to the Board, in ~~[writing, on a]~~ the form ~~[furnished]~~ *prescribed* by the Board;
- (b) Include in the application evidence, under oath, satisfactory to the Board, that the person possesses the qualifications required by NRS 640.080 *or 640.230, as applicable*, other than having passed the examination;
- (c) Pay to the Board at the time of filing the application a fee set by a regulation of the Board in an amount not to exceed \$300 ~~[;]~~ *for a license as a physical therapist or \$200 for a license as a physical therapist assistant*;
- (d) Submit to the Board with the application a complete set of fingerprints which the Board may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;
- (e) Submit other documentation and proof the Board may require; and
- (f) Submit all other information required to complete the application.

2. If an applicant submits an application for a license by endorsement pursuant to NRS 640.146, the Board shall collect not more than one-half of the fee specified in paragraph (c) of subsection 1 for the initial issuance of the license.

Sec. 12. NRS 640.095 is hereby amended to read as follows:

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

(a) An applicant for the issuance of a license as a physical therapist *or physical therapist assistant* shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license as a physical therapist *or physical therapist assistant* shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license as a physical therapist *or physical therapist assistant* 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. 13. NRS 640.110 is hereby amended to read as follows:

640.110 1. The Board shall license as a physical therapist *or physical therapist assistant* each applicant who proves to the satisfaction of the Board his or her qualifications for licensure.

2. The Board shall issue to each applicant who proves to the satisfaction of the Board his or her qualification for licensure ~~the~~ :

(a) *As a physical therapist*, a license as a physical therapist. The license authorizes the applicant to represent himself or herself as a licensed physical therapist and to practice physical therapy in the State of Nevada subject to the conditions and limitations of this chapter.

(b) *As a physical therapist assistant, a license as a physical therapist assistant. The license authorizes the applicant to represent himself or herself as a licensed physical therapist assistant and to practice as a licensed physical therapist assistant subject to the conditions and limitations of this chapter.*

3. Each physical therapist shall display his or her current license in a location which is accessible to the public.

4. The Board may charge a fee, not to exceed \$25, ~~to replace a lost license or to change a name on a license.~~

5. *A license as a physical therapist assistant remains valid while a supervising physical therapist continues to supervise the physical therapist assistant.*

Sec. 14. NRS 640.120 is hereby amended to read as follows:

640.120 1. The Board may issue, without examination, a license to practice as a physical ~~therapy~~ therapist or physical therapist assistant for a period not to exceed 6 months to any person who meets *all the other* qualifications set forth in NRS 640.080 ~~[, except subsection 3 thereof,]~~ or 640.230, *as applicable*, upon certification that the person has been assigned to the State of Nevada on a temporary basis to assist in a medical emergency. Issuance of the temporary license is subject to such fees, not to exceed \$100, and conditions as the Board may require.

2. A student ~~of physical therapy is not required to be licensed during his or her clinical training if the work is done under the direct supervision of a licensed physical therapist.]~~ *who is enrolled in a program of professional education for physical therapists or physical therapist assistants approved by the Board is not required to be licensed to work under the supervision of a physical therapist who is present on-site to satisfy a requirement of that program.*

3. A person who has applied for licensure as a physical therapist or physical therapist assistant and who meets the qualifications set forth in NRS 640.080 ~~[,]~~ or 640.230, except subsection 3 ~~[thereof,]~~ of NRS 640.080 or subsection 4 of NRS 640.230, *as applicable*, is temporarily exempt from licensure and may practice physical therapy or as a physical therapist assistant, *as applicable*, during the period of the temporary exemption if:

(a) The person has submitted a completed application for licensure for the first time and the application has been approved by the Board;

(b) The Board has approved the person to sit for the examination required ~~pursuant to~~ by NRS ~~[640.100,]~~ 640.080 or 640.230, *as applicable*;

(c) The person has not previously failed an examination for licensure as a physical therapist ~~[,]~~ or physical therapist assistant;

(d) The person practices physical therapy or as a physical therapist assistant, *as applicable*, under the supervision of a licensed physical therapist and in accordance with the provisions of this chapter and the regulations of the Board; and

(e) The person complies with any other requirements of the Board to practice physical therapy *or as a physical therapist assistant, as applicable*, during the period of the temporary exemption.

4. The temporary exemption authorized by subsection 3 begins on the date on which the Board notifies the person that he or she may practice physical therapy *or as a physical therapist assistant, as applicable*, under the temporary exemption and continues until the date of the examination if the person does not take the examination or until the date on which the Board notifies the person of the results of the examination. During the period of the temporary exemption, the person:

(a) Shall not use as his or her title or professional credentials any words, letters or insignia except for the words "graduate of physical therapy ~~[-]~~," "P.T.A." or "Physical Therapist Assistant," *as applicable*.

(b) Is subject to the regulatory and disciplinary authority of the Board to the same extent as a licensed physical therapist ~~[-]~~ *or licensed physical therapist assistant, as applicable*.

Sec. 15. NRS 640.145 is hereby amended to read as follows:

640.145 1. The Board may issue a license by endorsement as a physical therapist *or physical therapist assistant* to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license as a physical therapist *or physical therapist assistant, as applicable*, in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined ~~for~~ *and is not currently being* investigated by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license as a physical therapist ~~[-]~~ *or physical therapist assistant*; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 640.090;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) A fee in the amount of the fee set by a regulation of the Board pursuant to paragraph (c) of subsection 1 of NRS 640.090 for an application for a license; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement ~~[as a physical therapist]~~ pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement ~~[as a physical therapist]~~ to the applicant not later than:

- (a) Forty-five days after receiving the application; or
 - (b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,
- ↪ whichever occurs later.

4. A license by endorsement ~~[as a physical therapist]~~ may be issued at a meeting of the Board or between its meetings by the Chair of the Board ~~[or his or her designee]~~. Such an action shall be deemed to be an action of the Board.

Sec. 16. NRS 640.146 is hereby amended to read as follows:

640.146 1. The Board may issue a license by endorsement as a physical therapist *or physical therapist assistant* to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant:

- (a) Holds a corresponding valid and unrestricted license as a physical therapist *or physical therapist assistant* in the District of Columbia or any state or territory of the United States; and
- (b) Is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

- (a) Proof satisfactory to the Board that the applicant:
 - (1) Satisfies the requirements of subsection 1;
 - (2) Is a citizen of the United States or otherwise has the legal right to work in the United States;
 - (3) Has not been disciplined ~~[or]~~ *and is not currently being* investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as a physical therapist ~~[or]~~ *or physical therapist assistant*; and
 - (4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States;
- (b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 640.090;
- (c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;
- (d) A fee in the amount set by a regulation of the Board pursuant to paragraph (c) of subsection 1 of NRS 640.090 for an application for a license; and
- (e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement ~~[as a physical therapist]~~ pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement ~~[as a physical therapist]~~ to the applicant not later than:

(a) Forty-five days after receiving all the additional information required by the Board to complete the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

↪ whichever occurs later.

4. A license by endorsement ~~[as a physical therapist]~~ may be issued at a meeting of the Board or between its meetings by the Chair of the Board ~~[]~~ or *his or her designee*. Such an action shall be deemed to be an action of the Board.

5. At any time before making a final decision on an application for a license by endorsement pursuant to this section, the Board may grant a provisional license authorizing an applicant to practice as a physical therapist or *physical therapist assistant, as applicable*, in accordance with regulations adopted by the Board.

6. As used in this section, "veteran" has the meaning ascribed to it in NRS 417.005.

Sec. 17. NRS 640.150 is hereby amended to read as follows:

640.150 1. A license to practice *as a physical* ~~[therapy]~~ *therapist or physical therapist assistant* expires ~~[on July 31 of each year. A]~~ *1 year after the date of its issuance or on the date prescribed by the Board, whichever is later. Except as otherwise provided in subsection 2, a physical therapist or physical therapist assistant may renew a license before its expiration upon:*

(a) *Presentation of proof of completion of a program of continuing* ~~[education]~~ *competency as required by subsection 3;*

(b) *Payment of a renewal fee established by the Board; and*

(c) *Submission of all information required to complete the renewal.*

2. A license ~~[that is not renewed before July 31 of each year]~~ *may be renewed within 30 days after the date it expires. An expired license that is not renewed in a timely manner may be reinstated, at the discretion of the Board, upon:*

(a) *Payment of the* ~~[annual renewal fee and the annual expiration]~~ *reinstatement fee established by regulation of the Board for each year or portion thereof that the license is expired; and*

(b) ~~[Submission]~~ *Satisfaction of* ~~[all information required to complete]~~ *the requirements for renewal* ~~[]~~ *prescribed by subsection 1.*

3. The Board shall require licensed physical therapists *and physical therapist assistants* to complete a program of continuing ~~[education]~~

competency as a requirement for the renewal of licenses. The Board shall, by regulation ~~[-~~

~~— (a) Prescribe the curriculum;~~

~~— (b) Approve the courses of study or training; and~~

~~— (c) Establish the fees,~~

~~→~~ ~~},~~ establish requirements for the program ~~[-]~~ of continuing competency, which may include a requirement that any provider of such a program must be approved by the Board.

4. The Board ~~[may, pursuant to subsection 3,]~~ :

(a) Shall establish a fee for reinstatement of an expired license, to be paid for each year or portion thereof that the license is expired.

(b) May establish a fee of not more than \$150 to consider approval of a ~~[course]~~ program of ~~[study or training]~~ continuing competency.

Sec. 18. NRS 640.1605 is hereby amended to read as follows:

640.1605 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a physical therapist or physical ~~[therapist's]~~ therapist assistant, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license as a physical therapist or physical ~~[therapist's]~~ therapist assistant that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 19. NRS 640.1695 is hereby amended to read as follows:

640.1695 Unless the Board determines that extenuating circumstances exist, the Board shall forward to the appropriate law enforcement agency any substantiated information submitted to the Board concerning a person who practices or offers to practice physical therapy or as a physical ~~[therapist's]~~ therapist assistant without the appropriate license issued pursuant to the provisions of this chapter.

Sec. 20. NRS 640.170 is hereby amended to read as follows:

640.170 1. A person who is licensed under this chapter as a physical therapist shall use the words or letters "P.T." or "Physical Therapist" immediately following his or her name when representing himself or herself as a licensed physical therapist.

2. A person who is not licensed under this chapter as a physical therapist, or whose license has been suspended, revoked or has expired and who uses in

connection with his or her name the words or letters "L.P.T.," "Licensed Physical Therapist," "R.P.T.," "Registered Physical Therapist," "P.T.," "Physical Therapist," or any other letters, words or insignia indicating or implying that the person is a licensed physical therapist, or who in any other way, orally, or in writing, or in print, by sign, directly or by implication, represents himself or herself as a licensed physical therapist, is guilty of a misdemeanor.

3. *A sole proprietorship, corporation, limited-liability company, association, partnership or other form of business organization shall not:*

(a) Use in connection with its name or business activities the words or letters "L.P.T.," "Licensed Physical Therapist," "R.P.T.," "Registered Physical Therapist," "P.T.," "Physical Therapist," "physical therapy," or any other letters, words or insignia indicating or implying that the sole proprietorship, corporation, limited-liability company, association, partnership or other form of business organization provides, through employees, agents, independent contractors or representatives, services constituting the practice of physical therapy; or

(b) Represent in any other way, orally, or in writing, or in print, by sign, directly or by implication, that the sole proprietorship, corporation, limited-liability company, association or partnership provides services constituting the practice of physical therapy,

➡ *unless the services constituting the practice of physical therapy are provided by or under the supervision of a licensed physical therapist. A sole proprietorship, corporation, limited-liability company, association, partnership or other form of business organization that violates this subsection is guilty of a misdemeanor.*

4. *In addition to any criminal penalty that may be imposed for a violation of subsection 2 or 3, the Board, after notice and hearing, may:*

(a) Issue an order against any person who has violated subsection 2 or 3 imposing an administrative penalty of not more than \$5,000 for each violation. Any administrative penalty collected pursuant to this paragraph must be deposited in the State General Fund.

(b) Issue and serve on the person an order to cease and desist until the person obtains from the Board the proper license or otherwise demonstrates that he or she is no longer in violation of subsection 2 or 3. An order to cease and desist must include a telephone number with which the person may contact the Board.

(c) Issue a citation to the person. A citation issued pursuant to this paragraph must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this paragraph. Each activity in which the person is engaged constitutes a separate offense for which a separate citation may be issued. To appeal a citation, the person must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the citation.

(d) *Impose any combination of the penalties set forth in paragraphs (a), (b) and (c).*

Sec. 21. NRS 640.175 is hereby amended to read as follows:

640.175 1. *A person who is licensed under NRS 640.230 to 640.290, inclusive, as a physical therapist assistant shall use the words or letters "P.T.A." or "Physical Therapist Assistant" immediately following his or her name when representing himself or herself as a licensed physical therapist assistant.*

2. Any person:

~~{1.}~~ (a) Who is not licensed ~~[under NRS 640.230 to 640.290, inclusive,]~~ as a physical ~~{therapist's}~~ therapist assistant;

~~{2.}~~ (b) Whose license has been suspended or revoked; or

~~{3.}~~ (c) Whose license has expired and has not been reinstated,

↪ and who uses in connection with his or her name the words or letters "P.T.A." or "Physical ~~{Therapist's}~~ Therapist Assistant," or any other letters, words or insignia indicating or implying that he or she is a licensed physical ~~{therapist's}~~ therapist assistant, or who in any other way, orally, or in writing, or in print, by sign, directly, or by implication, represents himself or herself as a licensed physical ~~{therapist's}~~ therapist assistant, is guilty of a misdemeanor.

3. *In addition to any criminal penalty that may be imposed for a violation of subsection 2, the Board, after notice and hearing, may:*

(a) *Issue an order against any person who has violated subsection 2 imposing an administrative penalty of not more than \$5,000 for each violation. Any administrative penalty collected pursuant to this paragraph must be deposited in the State General Fund.*

(b) *Issue and serve on the person an order to cease and desist until the person obtains from the Board the proper license or otherwise demonstrates that he or she is no longer in violation of subsection 2. An order to cease and desist must include a telephone number with which the person may contact the Board.*

(c) *Issue a citation to the person. A citation issued pursuant to this paragraph must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this paragraph. Each activity in which the person is engaged constitutes a separate offense for which a separate citation may be issued. To appeal a citation, the person must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the citation.*

(d) *Impose any combination of the penalties set forth in paragraphs (a), (b) and (c).*

Sec. 22. NRS 640.210 is hereby amended to read as follows:

640.210 1. The Board shall investigate every supposed violation of this chapter coming to its notice and shall report to the proper district attorney all cases that in the judgment of the Board warrant prosecution.

2. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the

district court of any county, on application of the Board, may issue an injunction or any other order restraining such conduct. ~~{Proceedings}~~ *Except as otherwise provided in subsection 3, proceedings* under this subsection shall be governed by Rule 65 of the Nevada Rules of Civil Procedure, except that no bond or undertaking shall be required in any action commenced by the Board.

3. *In obtaining an injunction or any other order to restrain any conduct which constitutes or will constitute a violation of subsection 2 or 3 of NRS 640.170 or subsection 2 of NRS 640.175, the Board must only show that the person engaging or about to engage in the conduct violated subsection 2 or 3 of NRS 640.170 or subsection 2 of NRS 640.175 to establish that immediate and irreparable injury, loss or damage will result from the continued action of the person.*

Sec. 23. NRS 640.230 is hereby amended to read as follows:

640.230 ~~{To}~~ *Except as otherwise provided in NRS 640.145 and 640.146, to be eligible for licensing by the Board as a physical ~~{therapist's}~~ therapist assistant, an applicant must:*

1. Be at least 18 years old.
2. Be of good moral character.
3. ~~{Have graduated from an approved high school.}~~
- ~~—4.}~~ *Have completed ~~{an educational curriculum}~~ a program of professional education approved by the Board for a physical ~~{therapist's}~~ therapist assistant.*

~~{5.}~~ 4. Pass an examination designated by the Board or be entitled to licensing without examination as provided in NRS ~~{640.270 or 640.275.}~~ 640.120.

Sec. 24. NRS 640.240 is hereby amended to read as follows:

640.240 1. For the purposes of NRS 640.230, the Board shall not approve any ~~{educational curriculum}~~ *program of professional education* for a physical ~~{therapist's}~~ therapist assistant unless the ~~{curriculum}~~ *program* includes elementary or intermediate courses in clinical, anatomical, biological and physical sciences and is:

(a) At least a 2-year program requiring a minimum of 60 academic semester credits at a college accredited by a recognized accrediting agency; or

(b) A ~~{curriculum}~~ *program* which is provided by the Armed Forces of the United States.

2. The Board may refuse to approve any ~~{educational curriculum}~~ *program of professional education* for physical ~~{therapist's}~~ therapist assistants if the ~~{curriculum}~~ *program* does not include such courses in theory and procedures as determined by the Board to be necessary for these assistants.

Sec. 25. NRS 640.290 is hereby amended to read as follows:

640.290 A person licensed as a physical ~~{therapist's}~~ therapist assistant may assist in the practice of physical therapy only under the ~~{direct}~~ supervision of a supervising physical therapist, as regulated by the Board and

subject to the conditions and limitations of ~~[NRS 640.175]~~ *this chapter* and ~~[640.230 to 640.290, inclusive.] any regulations adopted pursuant thereto.~~

Sec. 26. NRS 640.310 is hereby amended to read as follows:

640.310 ~~[1.] The Board shall adopt regulations prescribing the activities that a physical therapist technician may perform only under the immediate supervision of a physical therapist. A physical therapist shall provide immediate supervision of a physical [therapist's] therapist technician while the technician performs [treatments related to physical therapy which have been directed by the physical therapist.~~

~~— 2. — As used in this section, "treatment" does not include secretarial, clerical or housekeeping activities, the transportation of a patient or the dressing or undressing of a patient.] any such activity.~~

Sec. 27. Any regulations adopted before October 1, 2017, by the State Board of Physical Therapy Examiners pursuant to NRS 640.050 concerning the treatments and other regulated procedures which may be performed by a physical therapist technician remain in effect until the Nevada Physical Therapy Board adopts regulations pursuant to NRS 640.310, as amended by section 26 of this act, to replace those regulations.

Sec. 28. The Legislative Counsel shall:

1. In preparing the Nevada Revised Statutes, use the authority set forth in subsection 10 of NRS 220.120 to substitute appropriately the name of any agency, officer or instrumentality of the State whose name is changed by this act for the name which the agency, officer or instrumentality previously used; and

2. In preparing supplements to the Nevada Administrative Code, substitute appropriately the name of any agency, officer or instrumentality of the State whose name is changed by this act for the name which the agency, officer or instrumentality previously used.

Sec. 29. NRS 640.100, 640.140, 640.250, 640.255, 640.260, 640.270, 640.275 and 640.280 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

640.100 Examination and reexamination of applicants; prohibition on participation in preparing, conducting or grading examination.

640.140 Licensing of physical therapist licensed in another state or territory.

640.250 Application for license: Contents; fees.

640.255 Payment of child support: Submission of certain information by applicant; grounds for denial of license; duty of Board.

640.260 Issuance and display of license; fee for replacement of lost license or to change name; duration of validity of license.

640.270 Licensing of physical therapist's assistant licensed in another state or territory.

640.275 Temporary license for medical emergency; temporary exemptions from licensing for certain students and applicants.

640.280 Renewal, expiration and reinstatement of license; continuing education; fees.

Senator Atkinson moved that the Senate concur in Assembly Amendment No. 732 to Senate Bill No. 437.

Remarks by Senator Atkinson.

The amendment makes one change in the act and revises provisions the supervision of physical therapist assistants.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 376.

The following Assembly amendment was read.

Amendment No. 682.

SUMMARY—Revises provisions relating to certain agreements between heir finders and apparent heirs. (BDR 12-480)

AN ACT relating to estates; revising provisions relating to certain agreements between heir finders and apparent heirs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that 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 it is entered into during the period beginning with the death of the person whose estate is in probate until 90 days thereafter. (NRS 139.135) This bill ~~extends~~ authorizes a court, upon a showing of good cause, to extend the period of unenforceability ~~to 1 year~~ until 180 days after the death of such a person.

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

Section 1. 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 ~~1 year~~ 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. 2. The amendatory provisions of this act apply to agreements described in this act that are entered into on or after October 1, 2017.

Senator Segerblom moved that the Senate do not concur in Assembly Amendment No. 682 to Senate Bill No. 376.

Remarks by Senator Segerblom.

Assembly Bill No. 376 requires a complaint to be filed within 72 hours after a person is arrested without a warrant, excluding Saturdays, Sundays, and legal holidays, unless a magistrate extends the time by up to an additional 72 hours. An extension cannot be ordered if the person is to remain in custody unless counsel is appointed. A violation of these provisions requires that the person be released from custody.

Motion carried.

Bill ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 5:52 p.m.

SENATE IN SESSION

At 7:13 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 45, 384, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

NICOLE J. CANNIZZARO, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that Assembly Bill No. 288 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 45.

Bill read second time.

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

Amendment No. 953.

SUMMARY—Revises provisions relating to public office. (BDR 24-426)

AN ACT relating to public office; requiring a nongovernmental entity that

sends a notice relating to voter registration to include certain information in the notice; updating citations in Nevada Revised Statutes to certain provisions of federal law; revising the deadlines for registering to vote by mail or computer for a primary, primary city, general city or general election; providing that the county and city clerks are not required to distribute sample ballots for an election to certain persons; revising the deadlines for submitting reports of campaign contributions, expenses and expenditures; requiring a candidate to include the ending balance in his or her campaign account on reports of campaign contributions; revising the campaign finance reporting requirements for certain candidates, persons, committees and parties relating to a special election to recall a public officer; revising the categories of campaign expenses and expenditures on campaign finance reports; setting forth the requirements to withdraw a petition for initiative or referendum; extending, under certain circumstances, the deadline for submitting for verification certain petitions for initiative; clarifying that a copy of a petition of candidacy of an independent candidate for the office of President of the United States must be filed with the Secretary of State before the petition is circulated for signatures; and providing other matters properly relating thereto. Legislative Counsel's Digest:

Section 1 of this bill requires a nongovernmental entity that sends a notice to a person indicating the person is not or may not be registered to vote or requesting the person to register to vote to indicate on the notice that it is not official elections mail from the Secretary of State or a county or city clerk.

Existing law relating to elections cites to various provisions of federal law, including the Voting Rights Act of 1965 (52 U.S.C. §§ 10101 to 10301 et seq.), the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. §§ 20301 et seq.), the Military and Overseas Voter Empowerment Act (52 U.S.C. §§ 20302 et seq.) and the Help America Vote Act (52 U.S.C. §§ 15482 et seq.). (NRS 293.208, 293.2699, 293.309, 293.4685, 293.502, 293.504, 293.505, 293C.305, 293D.050, 293D.110, 293D.200, 293D.230, 293D.300, 293D.320, 293D.410, 293D.530) Sections 8-13, 15 and 16-23 of this bill update the citations to these federal laws.

Existing federal law requires that each state ensure that an eligible voter who submits an application to register to vote by mail be registered to vote in an election for federal office if the voter registration form is postmarked not later than 30 days before the date of the election. (52 U.S.C. § 20507) Under existing Nevada law, an application to register to vote by mail must be postmarked or received by the county clerk not later than the fifth Saturday preceding a primary election, primary city election, general election or general city election. (NRS 293.5235, 293.560, 293C.527) Sections 14.6 and 15.5 of this bill provide that the last day to register to vote by mail is the fourth Tuesday preceding the primary election, primary city election, general election or general city election.

Existing law provides that the last day to register to vote by computer is the third Tuesday preceding any primary or general election. (NRS 293.560,

293C.527) Sections 14.6 and 15.5 provide, with limited exception, that the last day to register to vote by computer is the Thursday before the period for early voting begins.

Existing law requires county and city clerks to distribute sample ballots before the period for early voting begins. (NRS 293.565, 293C.530) Sections 14.8 and 15.7 of this bill provide a limited exception to this requirement so that the clerks are not required to distribute sample ballots for an election to persons who register to vote less than 20 days before the election. Section 8.5 of this bill makes a conforming change.

Existing law sets forth campaign finance reporting requirements for candidates and certain persons and committees that accept contributions and make expenditures related to a special election to recall a public officer. (NRS 294A.120, 294A.140, 294A.200, 294A.210) Sections 24 ~~and 25-27~~, 25, 26 and 27 of this bill set forth the reporting requirements that apply where no such special election is held because the petition for recall is not submitted for verification or is submitted for verification but is legally insufficient.

Existing law requires candidates and certain other persons, committees and political organizations to file with the Secretary of State reports disclosing certain contributions, campaign expenses and expenditures by statutorily scheduled dates during an election year and annually in nonelection years. (NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210 and 294A.220) Effective January 1, 2019, sections 24.2, 25.2, 25.4, 26.5, 27.1 and 27.11 of this bill amend the deadlines for filing campaign finance reports so that during: (1) an election year, reports will be filed on a quarterly basis; and (2) nonelection years, annual reports will be filed not later than January 15th.

Existing law sets forth campaign finance reporting requirements for candidates to report campaign contributions. (NRS 294A.120, 294A.125) Sections ~~24.2~~ 24.2 and 24.5 of this bill require, effective January 1, 2019, a candidate to include in his or her campaign finance reports the balance in the candidate's campaign account at the end of the reporting period.

Existing law sets forth the categories of campaign expenses and expenditures for use in reports of campaign expenses or expenditures. (NRS 294A.365) Section 27.2 of this bill ~~adds a category for interest, credit card fees, debit card fees or penalty fees incurred in relation to campaign expenses or expenditures paid for by a credit card or debit card. Section 27.2 also~~ requires, effective January 1, 2019, that each report of campaign expenses or expenditures must itemize each transaction and identify the business or other entity from whom the purchase was made if the purchase was paid for with a credit card or debit card.

Existing law requires a copy of a petition for initiative or referendum to be placed on file with the Secretary of State before it may be circulated for signatures. (NRS 295.015) Section 31 of this bill requires that the person who intends to circulate the petition must also submit to the Secretary of State a form that includes: (1) the person's name and signature; (2) the name of any committee for political action formed by the person to advocate the passage of

the initiative or referendum; and (3) the names of persons who are authorized to withdraw the petition or submit a revised petition. Section 30 of this bill provides that a petition may be withdrawn if one of those authorized persons submits a notice of withdrawal to the Secretary of State.

Existing law provides that if a petition for initiative proposes a statute or an amendment to a statute, the petition must be submitted for verification not later than the second Tuesday in November of an even-numbered year. (NRS 295.056) Section 32 of this bill provides that if the second Tuesday in November of an even-numbered year is the day of the general election, that deadline is instead the next working day after the election.

Existing law requires that if a person desires to be an independent candidate for President of the United States, the person must circulate a nominating petition and obtain a certain number of signatures. Existing law also requires that a copy of that petition be filed with the Secretary of State. (NRS 298.109) Section 34 of this bill clarifies that the copy must be filed with the Secretary of State before the petition is circulated for signatures.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

Any nongovernmental entity that sends a notice to a person:

1. *Indicating that the person is not or may not be registered to vote in this State; or*

2. *Requesting that the person register to vote in this State,*

must indicate clearly on the notice that it is not official elections mail from the Secretary of State or a county or city clerk.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 293.208 is hereby amended to read as follows:

293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in March of any year whose last digit is 6 and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

(a) Ordered by a court of competent jurisdiction;

(b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, ~~[42 U.S.C. §§ 1971 and 1973]~~ 52 U.S.C. §§ 10101 and 10301 et seq., and any amendments thereto;

(c) Required to comply with subsection 2 of NRS 293.205;

(d) Required by the incorporation of a new city; or

(e) Required by the creation of or change in the boundaries of a special district.

➡ As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and

(b) Maintain in his or her office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.

5. Cities of population categories two and three are exempt from the provisions of subsection 1.

6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 8.5. NRS 293.2546 is hereby amended to read as follows:

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

1. To receive and cast a ballot that:

(a) Is written in a format that allows the clear identification of candidates; and

(b) Accurately records the voter's preference in the selection of candidates.

2. To have questions concerning voting procedures answered and to have an explanation of the procedures for voting posted in a conspicuous place at the polling place.

3. To vote without being intimidated, threatened or coerced.

4. To vote on election day if the voter is waiting in line at his or her polling place to vote before 7 p.m. and the voter has not already cast a vote in that election.

5. To return a spoiled ballot and is entitled to receive another ballot in its place.

6. To request assistance in voting, if necessary.

7. To a sample ballot which is accurate, informative and delivered in a timely manner ~~[-]~~ *as provided by law.*

8. To receive instruction in the use of the equipment for voting during early voting or on election day.

9. To have nondiscriminatory equal access to the elections system, including, without limitation, a voter who is elderly, disabled, a member of a minority group, employed by the military or a citizen who is overseas.

10. To have a uniform, statewide standard for counting and recounting all votes accurately.

11. To have complaints about elections and election contests resolved fairly, accurately and efficiently.

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

293.2699 1. Each voting system used by a county or city shall provide voting materials in English and other languages in compliance with the provisions of ~~[42 U.S.C. § 1973aa-1a.]~~ *52 U.S.C. § 10503*.

2. As used in this section, the term "voting materials" has the meaning ascribed to it in ~~[42 U.S.C. § 1973aa-1a.]~~ *52 U.S.C. § 10503*.

Sec. 10. NRS 293.309 is hereby amended to read as follows:

293.309 1. The county clerk of each county shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The county clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who:

(a) Resides within the State, not later than 20 days before the election in which it is to be used;

(b) Except as otherwise provided in paragraph (c), resides outside the State, not later than 40 days before a primary or general election, if possible; or

(c) Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. §§ 1973ff]~~ *52 U.S.C. §§ 20301 et seq.*, not later than 45 days before the election.

3. Any legal action which would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

Sec. 11. NRS 293.4685 is hereby amended to read as follows:

293.4685 1. The Secretary of State shall:

(a) Provide information regarding voter registration and absentee voting by Armed Forces personnel and overseas voters;

(b) Within 90 days after the date of each general election and general city election in which electors voted for federal offices, submit to the Election Assistance Commission established pursuant to ~~[42 U.S.C. § 15321]~~ *52 U.S.C. § 20921* a report of the combined number of absentee ballots transmitted to absent Armed Forces personnel and overseas voters for the election and the combined number of such ballots that were returned by such voters and cast in the election;

(c) Make each report submitted pursuant to paragraph (b) available to the public; and

(d) Adopt any regulations which are necessary to comply with the provisions of the Help America Vote Act of 2002, Public Law 107-252, and which are not inconsistent with the provisions of this chapter to the extent the provisions of this chapter are consistent with the Help America Vote Act of 2002, Public Law 107-252.

2. Each county and city clerk shall provide such information as is requested by the Secretary of State to comply with the provisions of this section.

Sec. 12. NRS 293.502 is hereby amended to read as follows:

293.502 1. An elector:

(a) Who complies with the requirements for registration set forth in the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. §§ 1973ff]~~ 52 U.S.C. §§ 20301 et seq.;

(b) Who, not more than 60 days before an election:

(1) Is discharged from the Armed Forces of the United States or is the spouse or dependent of an elector who is discharged from the Armed Forces; or

(2) Is separated from employment outside the territorial limits of the United States or is the spouse or dependent of an elector who is separated from employment outside the territorial limits of the United States;

(c) Who presents evidence of the discharge from the Armed Forces or separation from employment described in paragraph (b) to the county clerk; and

(d) Is not registered to vote at the close of registration for that election, ➡ must be allowed to register to vote in the election.

2. Such an elector must:

(a) Register in person; and

(b) Vote in the office of the county clerk unless the elector is otherwise entitled to vote an absent ballot pursuant to federal law.

3. The Secretary of State shall adopt regulations to carry out a program of registration for such electors.

Sec. 13. NRS 293.504 is hereby amended to read as follows:

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons with disabilities in this State;

(c) The offices of the Department of Motor Vehicles;

(d) The offices of the city and county clerks;

(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable;

(f) Recruitment offices of the United States Armed Forces; and

(g) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) Except as otherwise provided in subsection 3, distribute applications to register to vote which may be returned by mail with any application for services or assistance from the agency or submitted for any other purpose and with each application for recertification, renewal or change of address submitted to the agency that relates to such services, assistance or other purpose;

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. A voter registration agency is not required to provide an application to register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency or submits an application for any other purpose if the person declines to register to vote and submits to the agency a written form that meets the requirements of ~~{42 U.S.C. § 1973gg-5(a)(6).}~~ *52 U.S.C. § 20506(a)(6)*. No information related to the declination to register to vote may be used for any purpose other than voter registration.

4. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the ~~{fifth Sunday preceding an election.}~~ *last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable*. The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the ~~{fifth Sunday preceding an election}~~ *last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable*, if the county clerk receives the application not later than 5 days after that date.

5. The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 14. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which the field registrar is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform such duties as the county clerk

may direct. The county clerk shall not knowingly appoint any person as a field registrar who has been convicted of a felony involving theft or fraud. The Secretary of State may bring an action against a county clerk to collect a civil penalty of not more than \$5,000 for each person who is appointed as a field registrar in violation of this subsection. Any civil penalty collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his or her possession five or more completed applications to register to vote, the field registrar shall forward them to the county clerk, but in no case may the field registrar hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his or her possession immediately after the ~~{fifth Sunday preceding an election.}~~ *last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable.* Within 5 days after the ~~{fifth Sunday preceding any general election or general city election.}~~ *last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable,* a field registrar shall return all unused applications in his or her possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him or her by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Delegate any of his or her duties to another person; or
- (b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself or herself out to be or attempt to exercise the duties of a field registrar unless the person has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Solicit a vote for or against a particular question or candidate;
- (b) Speak to a voter on the subject of marking his or her ballot for or against a particular question or candidate; or
- (c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,
➡ while registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, the county clerk shall issue a receipt to the field registrar. The receipt must include:

- (a) The number of persons registered; and
- (b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or
- (b) Register a person who fails to provide satisfactory proof of identification and the address at which the person actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

- (a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his or her name on the duplicate copy or receipt retained by the voter upon completion of the form; and
- (b) Shall not alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required.

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 14.2. NRS 293.5237 is hereby amended to read as follows:

293.5237 Any time before the ~~{fifth Sunday preceding an election,}~~ *last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable*, a person who because of illness, disability or for other good cause shown requires assistance to complete an application to register to vote may request the county clerk in writing or by telephone to register the person at the person's residence. Upon request, the county clerk shall direct the appropriate field registrar to go to the home of such a person to register the person to vote.

Sec. 14.4. NRS 293.524 is hereby amended to read as follows:

293.524 1. The Department of Motor Vehicles shall provide an application to register to vote to each person who applies for the issuance or renewal of any type of driver's license or identification card issued by the Department.

2. The county clerk shall use the applications to register to vote which are signed and completed pursuant to subsection 1 to register applicants to vote or

to correct information in the registrar of voters' register. An application that is not signed must not be used to register or correct the registration of the applicant.

3. For the purposes of this section, each employee specifically authorized to do so by the Director of the Department may oversee the completion of an application. The authorized employee shall check the application for completeness and verify the information required by the application. Each application must include a duplicate copy or receipt to be retained by the applicant upon completion of the form. The Department shall, except as otherwise provided in this subsection, forward each application on a weekly basis to the county clerk or, if applicable, to the registrar of voters of the county in which the applicant resides. The applications must be forwarded daily during the 2 weeks immediately preceding the ~~{fifth Sunday preceding an election}~~ *last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable.*

4. The county clerk shall accept any application to register to vote which is obtained from the Department of Motor Vehicles pursuant to this section and completed by the ~~{fifth Sunday preceding an election}~~ *last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable*, if the county clerk receives the application not later than 5 days after that date. Upon receipt of an application, the county clerk or field registrar of voters shall determine whether the application is complete. If the county clerk or field registrar of voters determines that the application is complete, he or she shall notify the applicant and the applicant shall be deemed to be registered as of the date of the submission of the application. If the county clerk or field registrar of voters determines that the application is not complete, he or she shall notify the applicant of the additional information required. The applicant shall be deemed to be registered as of the date of the initial submission of the application if the additional information is provided within 15 days after the notice for the additional information is mailed. If the applicant has not provided the additional information within 15 days after the notice for the additional information is mailed, the incomplete application is void. Any notification required by this subsection must be given by mail at the mailing address on the application not more than 7 working days after the determination is made concerning whether the application is complete.

5. The county clerk shall use any form submitted to the Department to correct information on a driver's license or identification card to correct information in the registrar of voters' register, unless the person indicates on the form that the correction is not to be used for the purposes of voter registration. The Department shall forward each such form to the county clerk or, if applicable, to the registrar of voters of the county in which the person resides in the same manner provided by subsection 3 for applications to register to vote.

6. Upon receipt of a form to correct information, the county clerk shall compare the information to that contained in the registrar of voters' register. If

the person is a registered voter, the county clerk shall correct the information to reflect any changes indicated on the form. After making any changes, the county clerk shall notify the person by mail that the records have been corrected.

7. The Secretary of State shall, with the approval of the Director, adopt regulations to:

(a) Establish any procedure necessary to provide an elector who applies to register to vote pursuant to this section the opportunity to do so;

(b) Prescribe the contents of any forms or applications which the Department is required to distribute pursuant to this section; and

(c) Provide for the transfer of the completed applications of registration from the Department to the appropriate county clerk for inclusion in the rosters and registrar of voters' register.

Sec. 14.6. NRS 293.560 is hereby amended to read as follows:

293.560 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300 ~~[registration must close on]~~ .

(a) *For a primary or general election, or a recall or special election that is held on the same day as a primary or general election, the last day to register to vote:*

(1) *By mail is the fourth Tuesday preceding the primary or general election.*

(2) *By appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035, is the third Tuesday preceding ~~[any]~~ the primary or general election . ~~[and on]~~*

(3) *By computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters, is the Thursday preceding the first day of the period for early voting.*

(b) *If a recall or special election is not held on the same day as a primary or general election, the last day to register to vote for the recall or special election by any means is the third Saturday preceding ~~[any]~~ the recall or special election . ~~[except that if a recall or special election is held on the same day as a primary or general election, registration must close on the third Tuesday preceding the day of the elections.]~~*

2. For a primary or special election, the office of the county clerk must be open until 7 p.m. during the last 2 days on which ~~[registration is open.]~~ a person may register to vote in person. In a county whose population is less than 100,000, the office of the county clerk may close at 5 p.m. during the last 2 days ~~[before registration closes]~~ a person may register to vote in person if approved by the board of county commissioners.

3. For a general election:

(a) In a county whose population is less than 100,000, the office of the county clerk must be open until 7 p.m. during the last 2 days on which ~~[registration is open.]~~ a person may register to vote in person. The office of the county clerk may close at 5 p.m. if approved by the board of county commissioners.

(b) In a county whose population is 100,000 or more, the office of the county clerk must be open during the last 4 days on which ~~registration is open,~~ *a person may register to vote in person*, according to the following schedule:

- (1) On weekdays until 9 p.m.; and
- (2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the county indicating:

- (1) The day and time that registration will be closed; and
- (2) If the county clerk has designated a county facility pursuant to NRS 293.5035, the location of that facility.

➤ If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. The offices of the county clerk, a county facility designated pursuant to NRS 293.5035 and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

6. ~~{For the period beginning on the fifth Sunday preceding any primary or general election and ending on the third Tuesday preceding any primary or general election, an elector may register to vote only:~~

~~—(a) By appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035; or~~

~~—(b) By computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.~~

~~—7.} A county facility designated pursuant to NRS 293.5035 may be open during the periods described in this section for such hours of operation as the county clerk may determine, as set forth in subsection 3 of NRS 293.5035.~~

Sec. 14.8. NRS 293.565 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

6. ~~Before~~ *Except as otherwise provided in subsection 7, before* the period for early voting for any election begins, the county clerk shall distribute to each registered voter in the county by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

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

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

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

7. *If a person registers to vote less than 20 days before the date of an election, the county clerk is not required to distribute to the person the sample ballot for that election by mail or electronic means.*

8. Except as otherwise provided in subsection ~~{8.}~~ 9, a sample ballot required to be distributed pursuant to this section must:

- (a) Be prepared in at least 12-point type; and
- (b) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN

LARGE TYPE, CALL (Insert appropriate telephone number)

~~{8.}~~ 9. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~{9.}~~ 10. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

~~{10.}~~ 11. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots distributed to that person from the county are in large type.

~~{11.}~~ 12. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

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

~~{12.}~~ 13. The cost of distributing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 15. NRS 293C.305 is hereby amended to read as follows:

293C.305 1. The city clerk shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The city clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who:

(a) Except as otherwise provided in paragraph (b), resides within or outside this State, not later than 20 days before the election in which it will be used.

(b) Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. §§ 1973ff]~~ 52 U.S.C. §§ 20301 et seq., not later than 45 days before the election.

3. Any legal action that would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

Sec. 15.5. NRS 293C.527 is hereby amended to read as follows:

293C.527 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300 ~~[, registration must close on]~~ :

(a) *For a primary city election or general city election, or a recall or special election that is held on the same day as a primary city election or general city election, the last day to register to vote:*

(1) *By mail is the fourth Tuesday preceding the primary city election or general city election.*

(2) *By appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520, is the third Tuesday preceding ~~[any]~~ the primary city election or general city election . ~~[and on]~~*

(3) *By computer, if the county clerk of the county in which the city is located has established a system pursuant to NRS 293.506 for using a computer to register voters and:*

(I) *The governing body of the city has provided for early voting by personal appearance pursuant to paragraph (b) of subsection 2 of NRS 293C.110, is the Thursday preceding the first day of the period for early voting.*

(II) *The governing body of the city has not provided for early voting by personal appearance pursuant to paragraph (b) of subsection 2 of NRS 293C.110, is the third Tuesday preceding any primary city election or general city election.*

(b) *If a recall or special election is not held on the same day as a primary city election or general city election, the last day to register to vote for the recall or special election by any means is the third Saturday preceding ~~[any]~~ the recall or special election . ~~[, except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close on the third Tuesday preceding the day of the elections.]~~*

2. For a primary city election or special city election, the office of the city clerk must be open until 7 p.m. during the last 2 days on which ~~[registration is open.]~~ a person may register to vote in person. In a city whose population is less than 25,000, the office of the city clerk may close at 5 p.m. if approved by the governing body of the city.

3. For a general election:

(a) In a city whose population is less than 25,000, the office of the city clerk must be open until 7 p.m. during the last 2 days on which ~~[registration is open.]~~

a person may register to vote in person. The office of the city clerk may close at 5 p.m. if approved by the governing body of the city.

(b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 4 days on which ~~[registration is open.]~~ *a person may register to vote in person*, according to the following schedule:

- (1) On weekdays until 9 p.m.; and
- (2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The city clerk of each city shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the city indicating:

- (1) The day and time that registration will be closed; and
- (2) If the city clerk has designated a municipal facility pursuant to NRS 293C.520, the location of that facility.

↪ If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. ~~[For the period beginning on the fifth Sunday preceding any primary city election or general city election and ending on the third Tuesday preceding any primary city election or general city election, an elector may register to vote only:~~

~~—(a) By appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520; or~~

~~—(b) By computer, if the county clerk of the county in which the city is located has established a system pursuant to NRS 293.506 for using a computer to register voters.~~

~~—6.]~~ A municipal facility designated pursuant to NRS 293C.520 may be open during the periods described in this section for such hours of operation as the city clerk may determine, as set forth in subsection 3 of NRS 293C.520.

Sec. 15.7. NRS 293C.530 is hereby amended to read as follows:

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

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

3. ~~[Before]~~ *Except as otherwise provided in subsection 4, before* the period for early voting for any election begins, the city clerk shall distribute to each registered voter in the city by mail or electronic means, as applicable, the

sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

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

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

4. *If a person registers to vote less than 20 days before the date of an election, the city clerk is not required to distribute to the person the sample ballot for that election by mail or electronic means.*

5. Except as otherwise provided in subsection ~~{6,}~~ 7, a sample ballot required to be distributed pursuant to this section must:

- (a) Be prepared in at least 12-point type;
- (b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS 295.205 or 295.217; and
- (c) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

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

~~{5,}~~ 6. The word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.

~~{6,}~~ 7. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~{7,}~~ 8. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

~~{8,}~~ 9. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots distributed to that person from the city are in large type.

~~{9,}~~ 10. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are

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

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

~~{10}~~ 11. The cost of distributing sample ballots for a city election must be borne by the city holding the election.

Sec. 16. NRS 293D.050 is hereby amended to read as follows:

293D.050 "Military-overseas ballot" means:

1. A federal write-in absentee ballot described in section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~{42 U.S.C. § 1973ff-2}~~; 52 U.S.C. § 20303;

2. A ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or

3. Any other ballot cast by a covered voter in accordance with this chapter.

Sec. 17. NRS 293D.110 is hereby amended to read as follows:

293D.110 In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that have enacted the Uniformed and Overseas Citizens Absentee Voting Act, ~~{42 U.S.C. § 1973ff}~~ 52 U.S.C. §§ 20301 et seq.

Sec. 18. NRS 293D.200 is hereby amended to read as follows:

293D.200 1. The Secretary of State shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots.

2. The Secretary of State shall establish a system of approved electronic transmission through which covered voters may apply for, receive and send documents and other information pursuant to this chapter. The system of approved electronic transmission must include, without limitation, a method by which a covered voter may provide his or her digital signature or electronic signature on any document or other material that is necessary for the covered voter to register to vote, apply for a military-overseas ballot or cast a military-overseas ballot pursuant to this chapter.

3. The Secretary of State shall develop standardized absentee-voting materials, including, without limitation, privacy and transmission envelopes and their electronic equivalents, authentication materials and voting instructions, to be used with the military-overseas ballot of a covered voter authorized to vote in any jurisdiction in this State and, to the extent reasonably possible, shall do so in coordination with other states.

4. The Secretary of State shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the covered voter's identity, eligibility to vote, status as a covered voter and timely and proper completion of a

military-overseas ballot. The declaration must be based on the declaration prescribed to accompany a federal write-in absentee ballot under section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~{42 U.S.C. § 1973ff-2,}~~ 52 U.S.C. § 20303, as modified to be consistent with this chapter. The Secretary of State shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

5. The Secretary of State shall prescribe by regulation the duties of a local elections official upon receipt of a military-overseas ballot, including, without limitation, the procedures to be used by a local elections official in accepting, handling and counting a military-overseas ballot.

Sec. 19. NRS 293D.230 is hereby amended to read as follows:

293D.230 1. In addition to any other method of registering to vote set forth in chapter 293 of NRS, a covered voter may use a federal postcard application, as prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, ~~{42 U.S.C. § 1973ff(b)(2),}~~ 52 U.S.C. § 20301(b)(2), or the application's electronic equivalent, to apply to register to vote.

2. A covered voter may use the declaration accompanying the federal write-in absentee ballot, as prescribed under section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~{42 U.S.C. § 1973ff-2,}~~ 52 U.S.C. § 20303, to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the seventh day before the election. If the declaration is received after the seventh day before the election, it must be treated as an application to register to vote for subsequent elections.

3. The Secretary of State shall ensure that the system of approved electronic transmission described in subsection 2 of NRS 293D.200 is capable of accepting:

(a) Both a federal postcard application and any other approved electronic registration application sent to the appropriate local elections official; and

(b) A digital signature or an electronic signature of a covered voter on the documents described in paragraph (a).

4. The covered voter may use the system of approved electronic transmission or any other method set forth in chapter 293 of NRS to register to vote.

Sec. 20. NRS 293D.300 is hereby amended to read as follows:

293D.300 1. A covered voter who is registered to vote in this State may apply for a military-overseas ballot by submitting a federal postcard application, as prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, ~~{42 U.S.C. § 1973ff(b)(2),}~~ 52 U.S.C. § 20301(b)(2), or the application's electronic equivalent, pursuant to this section.

2. A covered voter who is not registered to vote in this State may use the federal postcard application or the application's electronic equivalent simultaneously to apply to register to vote pursuant to NRS 293D.230 and to apply for a military-overseas ballot.

3. The Secretary of State shall ensure that the system of approved electronic transmission described in subsection 2 of NRS 293D.200 is capable of accepting the submission of:

(a) Both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate local elections official; and

(b) A digital signature or an electronic signature of a covered voter on the documents described in paragraph (a).

4. A covered voter may use approved electronic transmission or any other method approved by the Secretary of State to apply for a military-overseas ballot.

5. A covered voter may use the declaration accompanying the federal write-in absentee ballot, as prescribed under section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. § 1973ff-2,]~~ 52 U.S.C. § 20303, as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate local elections official by the seventh day before the election.

6. To receive the benefits of this chapter, a covered voter must inform the appropriate local elections official that he or she is a covered voter. Methods of informing the appropriate local elections official that a person is a covered voter include, without limitation:

(a) The use of a federal postcard application or federal write-in absentee ballot;

(b) The use of an overseas address on an approved voting registration application or ballot application; and

(c) The inclusion on an application to register to vote or an application for a military-overseas ballot of other information sufficient to identify that the person is a covered voter.

7. This chapter does not prohibit a covered voter from applying for an absent ballot pursuant to the provisions of NRS 293.315 or voting in person.

Sec. 21. NRS 293D.320 is hereby amended to read as follows:

293D.320 1. For all covered elections for which this State has not received a waiver pursuant to section 579 of the Military and Overseas Voter Empowerment Act, ~~[42 U.S.C. § 1973ff-1(g)(2),]~~ 52 U.S.C. § 20302(g)(2), not later than 45 days before the election or, if the 45th day before the election is a weekend or holiday, not later than the business day preceding the 45th day, the local elections official in each jurisdiction charged with distributing military-overseas ballots and balloting materials shall transmit military-overseas ballots and balloting materials to all covered voters who by that date submit a valid application for military-overseas ballots.

2. A covered voter who requests that a military-overseas ballot and balloting materials be sent to the covered voter by approved electronic transmission may choose to receive the military-overseas ballot and balloting materials by:

- (a) Facsimile transmission;
- (b) Electronic mail delivery; or
- (c) The system of approved electronic transmission that is established by the Secretary of State pursuant to subsection 2 of NRS 293D.200.

↪ The local elections official in each jurisdiction shall transmit the military-overseas ballot and balloting materials to the covered voter using the means of approved electronic transmission chosen by the covered voter.

3. If an application for a military-overseas ballot from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to other voters, the local elections official shall transmit the military-overseas ballot and balloting materials to the covered voter not later than 2 business days after the application arrives.

Sec. 22. NRS 293D.410 is hereby amended to read as follows:

293D.410 1. Except as otherwise provided in subsection 2, a covered voter may use the federal write-in absentee ballot, in accordance with section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~{42 U.S.C. § 1973ff-2,}~~ 52 U.S.C. § 20303, to vote for all offices and ballot measures in an election.

2. If the covered voter indicates on the federal write-in absentee ballot that he or she is residing overseas indefinitely, the covered voter may only use the federal write-in absentee ballot to vote for federal offices.

Sec. 23. NRS 293D.530 is hereby amended to read as follows:

293D.530 If a covered voter's mistake or omission in the completion of a document under this chapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonessential requirement, including, without limitation, using paper or envelopes of a specified size or weight, does not invalidate any document submitted under this chapter. In any write-in ballot authorized by this chapter, if the intention of the covered voter is discernable under this State's uniform definition of what constitutes a vote, as required by the Help America Vote Act of 2002, ~~{42 U.S.C. § 15481(a)(6),}~~ 52 U.S.C. § 21081(a)(6), an abbreviation, misspelling or other minor variation in the form of the name of a candidate or a political party must be accepted as a valid vote.

Sec. 23.5. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

"Election year" means, with regard to a:

1. Candidate, the calendar year in which the primary election and general election are held for the public office for which the candidate is seeking election or intends to seek election.

2. Question on the ballot, the calendar year in which the election is held for the question.

Sec. 23.7. NRS 294A.002 is hereby amended to read as follows:

294A.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 294A.0025 to 294A.014, inclusive, and section 23.5 of this act have the meanings ascribed to them in those sections.

Sec. 24. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for office at a primary election or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report:

(a) Each contribution in excess of \$100 received during the period;

(b) Contributions received during the period from a contributor which cumulatively exceed \$100; and

(c) The total of all contributions received during the period which are \$100 or less and which are not otherwise required to be reported pursuant to paragraph (b) ~~;~~ and

~~—(d) The balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.~~

→ The provisions of this subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

2. Every candidate for office at a primary election or general election shall, not later than:

(a) Twenty-one days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;

(b) Four days before the primary election for that office, for the period from 24 days before the primary election through 5 days before the primary election;

(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,

→ report each contribution described in ~~(paragraphs (a), (b) and (c) of~~ subsection 1 received during the period ~~;~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.

3. Except as otherwise provided in subsections 4 ~~,~~ and 5 and 6, and NRS 294A.223, every candidate for office at a special election shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the candidate's nomination through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

→ report each contribution described in ~~paragraphs (a), (b) and (c) of~~ subsection 1 received during the period ~~and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.~~

4. Except as otherwise provided in ~~subsection~~ subsections 5 and 6 and NRS 294A.223, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through the 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

→ report each contribution described in ~~paragraphs (a), (b) and (c) of~~ subsection 1 received during the period ~~and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.~~

5. Except as otherwise provided in subsection 6, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each contribution described in ~~paragraphs (a), (b) and (c) of~~ subsection 1 ~~and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.~~ The provisions of this subsection apply to the candidate for office at a special election if the petition for recall:

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) *Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.*

6. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each contribution described in ~~[paragraphs (a), (b) and (c) of]~~ subsection 1 received during the period ~~and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.]~~

~~{6.}~~ 7. Except as otherwise provided in NRS 294A.3733, reports of contributions must be filed electronically with the Secretary of State.

~~{7.}~~ 8. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

~~{8.}~~ 9. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 24.2. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for office at a primary election or general election shall, not later than January 15 of ~~each~~ the election year, for the period ~~[from]~~ beginning January 1 of the previous year ~~[through]~~ and ending on December 31 of the previous year, report:

(a) Each contribution in excess of \$100 received during the period;

(b) Contributions received during the period from a contributor which cumulatively exceed \$100; ~~and~~

(c) The total of all contributions received during the period which are \$100 or less and which are not otherwise required to be reported pursuant to paragraph (b). ~~+~~

~~→ The provisions of this subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.] ; and~~

(d) The balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.

2. ~~[Every]~~ In addition to the requirements set forth in subsection 1, every candidate for office at a primary election or general election shall, not later than:

(a) ~~[Twenty one days before the primary election for that office,]~~ April 15 of the election year, for the period ~~[from the]~~ beginning January 1 ~~[immediately preceding the primary election through 25 days before the primary election;]~~ and ending on March 31 of the election year;

(b) ~~Four days before the primary election for that office,~~ July 15 of the election year, for the period ~~from 24 days before the primary election through 5 days before the primary election,~~ beginning April 1 and ending on June 30 of the election year;

(c) ~~Twenty one days before the general election for that office,~~ October 15 of the election year, for the period ~~from 4 days before the primary election through 25 days before the general election,~~ beginning July 1 and ending on September 30 of the election year; and

(d) ~~Four days before the general election for that office,~~ January 15 of the year immediately following the election year, for the period ~~from 24 days before the general election through 5 days before the general election,~~ beginning October 1 and ending on December 31 of the election year.

↪ report each contribution described in paragraphs (a), (b) and (c) of subsection 1 received during the period ~~from~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.

3. Except as otherwise provided in subsections 4, 5 and 6, and NRS 294A.223, every candidate for office at a special election shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the candidate's nomination through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each contribution described in paragraphs (a), (b) and (c) of subsection 1 received during the period ~~from~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.

4. Except as otherwise provided in subsections 5 and 6 and NRS 294A.223, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through the 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each contribution described in paragraphs (a), (b) and (c) of subsection 1 received during the period ~~to~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.

5. Except as otherwise provided in subsection 6, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each contribution described in paragraphs (a), (b) and (c) of subsection 1 received during the period and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period. The provisions of this subsection apply to the candidate for office at a special election if the petition for recall:

- (a) Is not submitted to the filing officer as required by chapter 306 of NRS;
- (b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or
- (c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

6. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each contribution described in paragraphs (a), (b) and (c) of subsection 1 received during the period ~~to~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.

7. In addition to complying with the applicable requirements of subsections 1 to 6, inclusive, if a candidate is elected to office at a primary election, general election or special election, he or she must, not later than January 15 of each year, report the information described in paragraphs (a) to (d), inclusive, of subsection 1 for the period beginning January 1 of the previous year and ending on December 31 of the previous year. The provisions of this subsection apply to the candidate until the year immediately preceding the next election year for that office. Nothing in this subsection:

- (a) Requires the candidate to report information described in paragraphs (a) to (d), inclusive, of subsection 1 that has previously been reported in a timely manner pursuant to subsections 1 to 6, inclusive; or

(b) Authorizes the candidate to not comply with the applicable requirements of subsections 1 to 6, inclusive, if he or she becomes a candidate for another office at a primary election, general election or special election during his or her term of office.

8. Except as otherwise provided in NRS 294A.3733, reports of contributions must be filed electronically with the Secretary of State.

~~8.1~~ 9. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

~~9.1~~ 10. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 24.5. NRS 294A.125 is hereby amended to read as follows:

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120 and 294A.200, a candidate who receives contributions in any year before the year in which the general election in which the candidate intends to seek election to public office is held shall, for:

(a) The year in which the candidate receives contributions in excess of \$10,000, list:

(1) Each of the contributions received and the expenditures in excess of \$100 made in that year; ~~and~~

(2) The total of all contributions received and expenditures which are \$100 or less ~~+~~; and

(3) *The balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the reporting period.*

(b) Each year after the year in which the candidate received contributions in excess of \$10,000, until the year of the general election in which the candidate intends to seek election to public office is held, list:

(1) Each of the contributions received and the expenditures in excess of \$100 made in that year; ~~and~~

(2) The total of all contributions received and expenditures which are \$100 or less ~~+~~; and

(3) *The balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the reporting period.*

2. The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of \$100 and contributions that a contributor has made cumulatively in excess of that amount.

3. Except as otherwise provided in NRS 294A.3733, the report must be filed electronically with the Secretary of State.

4. A report shall be deemed to be filed on the date it was received by the Secretary of State.

Sec. 25. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. The provisions of this section apply to:

(a) Every person who makes an independent expenditure in excess of \$1,000; and

(b) Every committee for political action, political party and committee sponsored by a political party which receives contributions in excess of \$1,000 or makes an expenditure for or against a candidate for office or a group of such candidates.

2. Every person, committee and political party described in subsection 1 shall, not later than January 15 of each year that the provisions of this subsection apply, for the period from January 1 of the previous year through December 31 of the previous year, report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The provisions of this subsection apply to the person, committee or political party beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

3. Every person, committee and political party described in subsection 1 shall, not later than:

(a) Twenty-one days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;

(b) Four days before the primary election for that office, for the period from 24 days before the primary election through 5 days before the primary election;

(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election, ➤ report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000.

4. Except as otherwise provided in subsections 5 , ~~and~~ 6 and 7 and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election or for or against a group of such candidates shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the nomination of the candidate through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000.

5. Except as otherwise provided in ~~subsection~~ *subsections 6 and 7* and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of candidates for offices at such special elections shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate a petition to recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000.

6. *Except as otherwise provided in subsection 7, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each contribution in excess of \$1,000 received and contributions received which cumulatively exceed \$1,000. The provisions of this subsection apply to the person, committee and political party if the petition for recall:*

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

7. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of candidates for offices at such a special election shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each contribution in excess of \$1,000 received during the period and contributions received during the period which cumulatively exceed \$1,000.

~~{7-}~~ 8. Except as otherwise provided in NRS 294A.3737, the reports of contributions required pursuant to this section must be filed electronically with the Secretary of State.

~~{8-}~~ 9. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

~~{9-}~~ 10. Every person, committee and political party described in this section shall file a report required by this section even if the person, committee or political party receives no contributions.

~~{10-}~~ 11. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of \$1,000 since the beginning of the current reporting period.

Sec. 25.2. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. The provisions of this section apply to:

(a) Every person who makes an independent expenditure in excess of \$1,000; and

(b) Every committee for political action, political party and committee sponsored by a political party which receives contributions in excess of \$1,000 or makes an expenditure for or against a candidate for office or a group of such candidates.

2. Every person, committee and political party described in subsection 1 shall, not later than January 15 of ~~each~~ the election year, ~~[that the provisions of this subsection apply]~~ for the period ~~[from]~~ beginning January 1 of the previous year ~~[through]~~ and ending on December 31 of the previous year, report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. ~~[The provisions of this subsection apply to the person, committee or political party beginning the year of the general election for that office through the year immediately preceding the next general election for that office.]~~

3. ~~Every~~ *In addition to the requirements set forth in subsection 2, every person, committee and political party described in subsection 1 shall, not later than:*

(a) ~~Twenty one days before the primary election for that office,~~ *April 15 of the election year, for the period* ~~from the beginning January 1 immediately preceding the primary election through 25 days before the primary election;~~ *and ending on March 31 of the election year;*

(b) ~~Four days before the primary election for that office,~~ *July 15 of the election year, for the period* ~~from 24 days before the primary election through 5 days before the primary election;~~ *beginning April 1 and ending on June 30 of the election year;*

(c) ~~Twenty one days before the general election for that office,~~ *October 15 of the election year, for the period* ~~from 4 days before the primary election through 25 days before the general election;~~ *beginning July 1 and ending on September 30 of the election year; and*

(d) ~~Four days before the general election for that office,~~ *January 15 of the year immediately following the election year, for the period* ~~from 24 days before the general election through 5 days before the general election;~~ *beginning October 1 and ending on December 31 of the election year.*

↪ report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000.

4. Except as otherwise provided in subsections 5, 6 and 7 and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election or for or against a group of such candidates shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the nomination of the candidate through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000.

5. Except as otherwise provided in subsections 6 and 7 and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of candidates for offices at such special elections shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate a petition to recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

→ report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000.

6. Except as otherwise provided in subsection 7, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each contribution in excess of \$1,000 received and contributions received which cumulatively exceed \$1,000. The provisions of this subsection apply to the person, committee and political party if the petition for recall:

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

7. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of candidates for offices at such a special election shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each

contribution in excess of \$1,000 received during the period and contributions received during the period which cumulatively exceed \$1,000.

8. In addition to complying with the applicable requirements of subsections 2 to 7, inclusive, a person, committee or political party described in subsection 1 must, not later than January 15 of each year that is not an election year, for the period beginning January 1 of the previous year and ending on December 31 of the previous year, report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. Nothing in this subsection:

(a) Requires the person, committee or political party to report information that has previously been reported in a timely manner pursuant to subsections 2 to 7, inclusive; or

(b) Authorizes the person, committee or political party to not comply with any applicable requirement set forth in subsections 2 to 7, inclusive.

9. Except as otherwise provided in NRS 294A.3737, the reports of contributions required pursuant to this section must be filed electronically with the Secretary of State.

~~9.~~ 10. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

~~10.~~ 11. Every person, committee and political party described in this section shall file a report required by this section even if the person, committee or political party receives no contributions.

~~11.~~ 12. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of \$1,000 since the beginning of the current reporting period.

Sec. 25.4. NRS 294A.150 is hereby amended to read as follows:

294A.150 1. Every committee for political action that advocates the passage or defeat of a question or group of questions on the ballot at a primary election or general election shall, not later than January 15 of ~~each~~ the ~~election year, [that the provisions of this subsection apply to the committee for political action,]~~ election year, for the period [from] beginning January 1 of the previous year ~~[through]~~ and ending on December 31 of the previous year, report each contribution in excess of \$1,000 received during that period and contributions received during the period from a contributor which cumulatively exceed \$1,000. ~~[The provisions of this subsection apply to the committee for political action:]~~

~~—(a) Each year in which an election is held for each question for which the committee for political action advocates passage or defeat; and~~

~~—(b) The year after the year described in paragraph (a).]~~

2. ~~[A]~~ In addition to the requirements set forth in subsection 1, the committee for political action ~~[described in subsection 1]~~ shall, not later than:

(a) ~~{Twenty one days before the primary election,}~~ April 15 of the election year, for the period ~~{from the}~~ beginning January 1 ~~{immediately preceding the primary election through 25 days before the primary election,}~~ and ending on March 31 of the election year;

(b) ~~{Four days before the primary election,}~~ July 15 of the election year, for the period ~~{from 24 days before the primary election through 5 days before the primary election,}~~ beginning April 1 and ending on June 30 of the election year;

(c) ~~{Twenty one days before the general election,}~~ October 15 of the election year, for the period ~~{from 4 days before the primary election through 25 days before the general election,}~~ beginning July 1 and ending on September 30 of the election year; and

(d) ~~{Four days before the general election,}~~ January 15 of the year immediately following the election year, for the period ~~{from 24 days before the general election through 5 days before the general election,}~~ beginning October 1 and ending on December 31 of the election year,

↪ report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000.

3. Except as otherwise provided in NRS 294A.223, every committee for political action that advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date that the question qualified for the ballot through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000.

4. The provisions of this section apply to a committee for political action even if the question or group of questions that the committee for political action advocates the passage or defeat of is removed from the ballot by a court order or otherwise does not appear on the ballot at a primary, general or special election.

5. Except as otherwise provided in NRS 294A.3737, the reports required pursuant to this section must be filed electronically with the Secretary of State.

6. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

7. If the committee for political action is advocating passage or defeat of a group of questions, the reports must be itemized by question or petition.

Sec. 26. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for office at a primary election or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report:

(a) Each of the campaign expenses in excess of \$100 incurred during the period;

(b) Each amount in excess of \$100 disposed of pursuant to NRS 294A.160 or subsection 3 of NRS 294A.286 during the period;

(c) The total of all campaign expenses incurred during the period which are \$100 or less; and

(d) The total of all amounts disposed of during the period pursuant to NRS 294A.160 or subsection 3 of NRS 294A.286 which are \$100 or less.

2. The provisions of subsection 1 apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 or 294A.286.

3. Every candidate for office at a primary election or general election shall, not later than:

(a) Twenty-one days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;

(b) Four days before the primary election for that office, for the period from 24 days before the primary election through 5 days before the primary election;

(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election, ➡ report each of the campaign expenses described in subsection 1 incurred during the period.

4. Except as otherwise provided in subsections 5 , ~~and~~ 6 and 7 and NRS 294A.223, every candidate for office at a special election shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the candidate's nomination through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each of the campaign expenses described in subsection 1 incurred during the period.

5. Except as otherwise provided in ~~subsection~~ *subsections 6 and 7* and NRS 294A.223, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each of the campaign expenses described in subsection 1 incurred during the period.

6. *Except as otherwise provided in subsection 7, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each of the campaign expenses described in subsection 1 incurred during the period. The provisions of this subsection apply to the candidate for office at a special election if the petition for recall:*

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

7. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the district orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each of the campaign expenses described in subsection 1 incurred during the period.

~~{7.}~~ 8. Except as otherwise provided in NRS 294A.3733, reports of campaign expenses must be filed electronically with the Secretary of State.

~~{8.}~~ 9. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

Sec. 26.5. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for office at a primary election or general election shall, not later than January 15 of ~~each~~ the election year, for the period ~~{from}~~ beginning January 1 of the previous year ~~{through}~~ and ending on December 31 of the previous year, report:

(a) Each of the campaign expenses in excess of \$100 incurred during the period;

(b) Each amount in excess of \$100 disposed of pursuant to NRS 294A.160 or subsection 3 of NRS 294A.286 during the period;

(c) The total of all campaign expenses incurred during the period which are \$100 or less; and

(d) The total of all amounts disposed of during the period pursuant to NRS 294A.160 or subsection 3 of NRS 294A.286 which are \$100 or less.

2. ~~{The provisions of subsection 1 apply to the candidate}~~

~~—(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and~~

~~—(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 or 294A.286.~~

~~3. Every}~~ In addition to the requirements set forth in subsection 1, every candidate for office at a primary election or general election shall, not later than:

(a) ~~{Twenty one days before the primary election for that office,}~~ April 15 of the election year, for the period ~~{from the January 1 immediately preceding the primary election through 25 days before the primary election,}~~ beginning January 1 and ending on March 31 of the election year;

(b) ~~{Four days before the primary election for that office,}~~ July 15 of the election year, for the period ~~{from 24 days before the primary election through 5 days before the primary election,}~~ beginning April 1 and ending on June 30 of the election year;

(c) ~~{Twenty one days before the general election for that office,}~~ October 15 of the election year, for the period ~~{from 4 days before the primary election through 25 days before the general election,}~~ beginning July 1 and ending on September 30 of the election year; and

(d) ~~{Four days before the general election for that office,}~~ January 15 of the year immediately following the election year, for the period ~~{from 24 days before the general election through 5 days before the general election,}~~ beginning October 1 and ending on December 31 of the election year,

↪ report each of the campaign expenses described in subsection 1 incurred during the period.

~~{4}~~ 3. Except as otherwise provided in subsections ~~{5, 6 and 7}~~ 4, 5 and 6 and NRS 294A.223, every candidate for office at a special election shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the candidate's nomination through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,
↪ report each of the campaign expenses described in subsection 1 incurred during the period.

~~{5}~~ 4. Except as otherwise provided in subsections ~~{6 and 7}~~ 5 and 6 and NRS 294A.223, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,
↪ report each of the campaign expenses described in subsection 1 incurred during the period.

~~{6}~~ 5. Except as otherwise provided in subsection ~~{7}~~ 6, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each of the campaign expenses described in subsection 1 incurred during the period. The provisions of this subsection apply to the candidate for office at a special election if the petition for recall:

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

~~{7.}~~ 6. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the district orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each of the campaign expenses described in subsection 1 incurred during the period.

7. In addition to complying with the applicable reporting requirements of subsections 1 to 6, inclusive, if a candidate is elected to office at a primary election, general election or special election, he or she must, not later than January 15 of each year, report each of the campaign expenses described in subsection 1 incurred during the period beginning January 1 of the previous year and ending on December 31 of the previous year. The provisions of this subsection apply to the candidate until the year immediately preceding the next election year for that office. Nothing in this section:

(a) Requires the candidate to report a campaign expense that has previously been reported in a timely manner pursuant to subsections 1 to 6, inclusive; or

(b) Authorizes the candidate to not comply with the applicable requirements of subsections 1 to 6, inclusive, if he or she becomes a candidate for another office at a primary election, general election or special election during his or her term office.

8. If a candidate disposes of contributions pursuant to NRS 294A.160 or 294A.286 in any calendar year for which the candidate is not required to file a report pursuant to other provisions of this section, the candidate shall on or before January 15 of the following year, for the period beginning January 1 and ending on December 31 of the calendar year, report:

(a) Each amount in excess of \$100 disposed of pursuant to NRS 294A.160 or 294A.286 during the period; and

(b) The total of all amounts disposed of during the period pursuant to NRS 294A.160 or 294A.286 which are \$100 or less.

9. Except as otherwise provided in NRS 294A.3733, reports of campaign expenses must be filed electronically with the Secretary of State.

~~{9.}~~ 10. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

Sec. 27. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. The provisions of this section apply to:

(a) Every person who makes an independent expenditure in excess of \$1,000; and

(b) Every committee for political action, political party and committee sponsored by a political party which receives contributions in excess of \$1,000

or makes an expenditure for or against a candidate for office or a group of such candidates.

2. Every person, committee and political party described in subsection 1 shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee or political party, for the period from January 1 of the previous year through December 31 of the previous year, report each independent expenditure or other expenditure, as applicable, made during the period in excess of \$1,000 and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000. The provisions of this subsection apply to the person, committee or political party beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

3. Every person, committee and political party described in subsection 1 shall, not later than:

(a) Twenty-one days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;

(b) Four days before the primary election for that office, for the period from 24 days before the primary election through 5 days before the primary election;

(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election, ➤ report each independent expenditure or other expenditure, as applicable, in excess of \$1,000 made during the period and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000.

4. Except as otherwise provided in subsections 5 , ~~and~~ 6 and 7 and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election or for or against a group of such candidates shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the nomination of the candidate through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election, ➤ report each independent expenditure or other expenditure, as applicable, in excess of \$1,000 made during the period and independent expenditures or

other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000.

5. Except as otherwise provided in ~~subsection~~ *subsections 6 and 7* and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

→ report each independent expenditure or other expenditure, as applicable, in excess of \$1,000 made during the period and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000.

6. *Except as otherwise provided in subsection 7, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each of the campaign expenses described in subsection 1 incurred during the period. The provisions of this subsection apply to the person, committee and political party if the petition for recall:*

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

7. If a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every person, committee

and *political* party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each independent expenditure or other expenditure, as applicable, in excess of \$1,000 made during the period and independent expenditures or expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000.

~~{7.}~~ 8. Independent expenditures and other expenditures made within the State or made elsewhere but for use within the State, including independent expenditures and other expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

~~{8.}~~ 9. Except as otherwise provided in NRS 294A.3737, the reports must be filed electronically with the Secretary of State.

~~{9.}~~ 10. If an independent expenditure or other expenditure, as applicable, is made for or against a group of candidates, the reports must be itemized by the candidate.

~~{10.}~~ 11. A report shall be deemed to be filed on the date that it was received by the Secretary of State. Every person, committee or political party described in subsection 1 shall file a report required by this section even if the person, committee or political party receives no contributions.

Sec. 27.1. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. The provisions of this section apply to:

(a) Every person who makes an independent expenditure in excess of \$1,000; and

(b) Every committee for political action, political party and committee sponsored by a political party which receives contributions in excess of \$1,000 or makes an expenditure for or against a candidate for office or a group of such candidates.

2. Every person, committee and political party described in subsection 1 shall, not later than January 15 of ~~each~~ the election year, ~~{that the provisions of this subsection apply to the person, committee or political party,}~~ for the period ~~{from}~~ beginning January 1 of the previous year ~~{through}~~ and ending on December 31 of the previous year, report each independent expenditure or other expenditure, as applicable, made during the period in excess of \$1,000 and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000. ~~{The provisions of this subsection apply to the person, committee or political party beginning the year of the general election for that office through the year immediately preceding the next general election for that office.}~~

3. ~~Every~~ *In addition to the requirements set forth in subsection 2, every person, committee and political party described in subsection 1 shall, not later than:*

(a) ~~Twenty one days before the primary election for that office,~~ *April 15 of the election year,* for the period ~~from the January 1 immediately preceding the primary election through 25 days before the primary election,~~ *beginning January 1 and ending on March 31 of the election year;*

(b) ~~Four days before the primary election for that office,~~ *July 15 of the election year,* for the period ~~from 24 days before the primary election through 5 days before the primary election,~~ *beginning April 1 and ending on June 30 of the election year;*

(c) ~~Twenty one days before the general election for that office,~~ *October 15 of the election year,* for the period ~~from 4 days before the primary election through 25 days before the general election,~~ *beginning July 1 and ending on September 30 of the election year; and*

(d) ~~Four days before the general election for that office,~~ *January 15 of the year immediately following the election year,* for the period ~~from 24 days before the general election through 5 days before the general election,~~ *beginning October 1 and ending on December 31 of the election year.*

➡ report each independent expenditure or other expenditure, as applicable, in excess of \$1,000 made during the period and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000.

4. Except as otherwise provided in subsections 5, 6 and 7 and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election or for or against a group of such candidates shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the nomination of the candidate through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

➡ report each independent expenditure or other expenditure, as applicable, in excess of \$1,000 made during the period and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000.

5. Except as otherwise provided in subsections 6 and 7 and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to

determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

↪ report each independent expenditure or other expenditure, as applicable, in excess of \$1,000 made during the period and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000.

6. Except as otherwise provided in subsection 7, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each of the campaign expenses described in subsection 1 incurred during the period. The provisions of this subsection apply to the person, committee and political party if the petition for recall:

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

7. If a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the

filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each independent expenditure or other expenditure, as applicable, in excess of \$1,000 made during the period and independent expenditures or expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000.

8. In addition to complying with the applicable requirements of subsections 2 to 7, inclusive, a person, committee or political party described in subsection 1 must, not later than January 15 of each year that is not an election year, for the period beginning January 1 of the previous year and ending on December 31 of the previous year, report each independent expenditure or other expenditure, as applicable, made during the period in excess of \$1,000 and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed \$1,000. Nothing in this subsection:

(a) Requires the person, committee or political party to report information that has previously been reported in a timely manner pursuant to subsections 2 to 7, inclusive; or

(b) Authorizes the person, committee or political party to not comply with any applicable requirement set forth in subsections 2 to 7, inclusive.

9. Independent expenditures and other expenditures made within the State or made elsewhere but for use within the State, including independent expenditures and other expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

~~10.~~ 10. Except as otherwise provided in NRS 294A.3737, the reports must be filed electronically with the Secretary of State.

~~10.~~ 11. If an independent expenditure or other expenditure, as applicable, is made for or against a group of candidates, the reports must be itemized by the candidate.

~~11.~~ 12. A report shall be deemed to be filed on the date that it was received by the Secretary of State. Every person, committee or political party described in subsection 1 shall file a report required by this section even if the person, committee or political party receives no contributions.

Sec. 27.11. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. Every committee for political action that advocates the passage or defeat of a question or group of questions on the ballot at a primary election or general election shall, not later than January 15 of ~~each~~ the election year, ~~[that the provisions of this subsection apply to the committee for political action,~~ for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period for or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 and such expenditures made during the period to one recipient that cumulatively exceed \$1,000. ~~[The provisions of this subsection apply to the committee for political action.~~

~~(a) Each year in which an election is held for a question for which the committee for political action advocates passage or defeat; and~~

~~(b) The year after the year described in paragraph (a).]~~

2. ~~[A.] In addition to the requirements set forth in subsection 1, the committee for political action [described in subsection 1] shall, not later than:~~

(a) ~~[Twenty-one days before the primary election,] April 15 of the election year, for the period [from the] beginning January 1 [immediately preceding the primary election through 25 days before the primary election,] and ending on March 31 of the election year;~~

(b) ~~[Four days before the primary election,] July 15 of the election year, for the period [from 24 days before the primary election through 5 days before the primary election,] beginning April 1 and ending on June 30 of the election year;~~

(c) ~~[Twenty-one days before the general election,] October 15 of the election year, for the period [from 4 days before the primary election through 25 days before the general election,] beginning July 1 and ending on September 30 of the election year; and~~

(d) ~~[Four days before the general election,] January 15 of the year immediately following the election year, for the period [from 24 days before the general election through 5 days before the general election,] beginning October 1 and ending on December 31 of the election year.~~

→ report each expenditure made during the period for or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 and such expenditures made during the period to one recipient that cumulatively exceed \$1,000.

3. Except as otherwise provided in NRS 294A.223, every committee for political action that advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the question qualified for the ballot through 5 days before the beginning of early voting by personal appearance for the special election;

(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and

(c) Thirty days after the special election, for the remaining period through the date of the special election,

→ report each expenditure made during the period for or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$1,000 and such expenditures made during the period to one recipient that cumulatively exceed \$1,000.

4. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

5. The provisions of this section apply to a committee for political action even if the question or group of questions that the committee for political action advocates the passage or defeat of is removed from the ballot by a court order or otherwise does not appear on the ballot at a primary, general or special election.

6. Except as otherwise provided in NRS 294A.3737, reports required pursuant to this section must be filed electronically with the Secretary of State.

7. If an expenditure is made for or against a group of questions, the reports must be itemized by question or petition.

8. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

Sec. 27.2. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report required pursuant to NRS 294A.210, 294A.220 and 294A.280 must consist of a list of each expenditure in excess of \$100 or \$1,000, as is appropriate, that was made during the periods for reporting. Each report required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each campaign expense in excess of \$100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the campaign expense or expenditure and the date on which the campaign expense was incurred or the expenditure was made.

2. The categories of campaign expense or expenditure for use on the report of campaign expenses or expenditures are:

- (a) Office expenses;
- (b) Expenses related to volunteers;
- (c) Expenses related to travel;
- (d) Expenses related to advertising;
- (e) Expenses related to paid staff;
- (f) Expenses related to consultants;
- (g) Expenses related to polling;
- (h) Expenses related to special events;
- (i) Expenses related to a legal defense fund;
- (j) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid;
- (k) Contributions made to another candidate, a nonprofit corporation that is registered or required to be registered pursuant to NRS 294A.225, a committee for political action that is registered or required to be registered pursuant to NRS 294A.230 or a committee for the recall of a public officer that is registered or required to be registered pursuant to NRS 294A.250;
- (l) Fees for filing declarations of candidacy or acceptances of candidacy;
- (m) Repayments or forgiveness of loans;
- (n) The disposal of unspent contributions pursuant to NRS 294A.160; and
- (o) ~~Interest, credit card fees, debit card fees or penalty fees incurred in relation to campaign expenses or expenditures paid for by a credit card or debit card; and~~
- ~~(p)~~ Other miscellaneous expenses.

3. Each report of campaign expenses or expenditures described in subsection 1 must ~~list~~ :

(a) List the disposition of any unspent contributions using the categories set forth in subsection 3 of NRS 294A.160 or subsection 3 of NRS 294A.286, as applicable ~~to~~ ; and

(b) For any campaign expense or expenditure that is paid for using a credit card or debit card, itemize each transaction and identify the business or other entity from whom the purchase of the campaign expense or expenditure was made.

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. Chapter 295 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A petition for initiative or referendum may be withdrawn if a person authorized pursuant to NRS 295.015 to withdraw the petition submits a notice of withdrawal to the Secretary of State on a form prescribed by the Secretary of State.

2. Once a petition for initiative or referendum is withdrawn pursuant to subsection 1, no further action may be taken on that petition.

Sec. 31. NRS 295.015 is hereby amended to read as follows:

295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, the person who intends to circulate the petition must:

(a) File a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, ~~(must be placed on file)~~ with the Secretary of State.

(b) Submit to the Secretary of State on a form prescribed by the Secretary of State:

(1) The name and signature of the person.

(2) If the person has formed a committee for political action for the purposes of advocating the passage of the initiative or referendum, the name of that committee for political action.

(3) The names of not more than three persons who are authorized to withdraw the petition or submit an amended petition.

2. If a petition for initiative or referendum or a description of the effect of an initiative or referendum required pursuant to NRS 295.009 is amended after the petition is placed on file with the Secretary of State pursuant to subsection 1:

(a) The revised petition must be placed on file with the Secretary of State before it is presented to the registered voters for their signatures;

(b) Any signatures that were collected on the original petition before it was amended are not valid; and

(c) The requirements for submission of the petition to each county clerk set forth in NRS 295.056 apply to the revised petition.

3. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1 or 2:

(a) The Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.

(b) The Secretary of State shall consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum.

4. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1 or 2, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009, any fiscal note prepared pursuant to subsection 3 and any suggestions made by the Legislative Counsel pursuant to subsection 3, on the Secretary of State's Internet website.

Sec. 32. NRS 295.056 is hereby amended to read as follows:

295.056 1. Before a petition for initiative or referendum is filed with the Secretary of State, the petitioners must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within the clerk's county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than :

(a) *Except as otherwise provided in paragraph (b), the second Tuesday in November of an even-numbered year.*

(b) *If the second Tuesday in November of an even-numbered year is the day of the general election, the next working day after the general election.*

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in June of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in June of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time. If documents concerning the same petition are submitted for verification to more than one county clerk, the documents must be submitted to each county clerk on the same day. At the time that the petition is submitted to a county clerk for verification, the petitioners may

designate a contact person who is authorized by the petitioners to address questions or issues relating to the petition.

Sec. 33. (Deleted by amendment.)

Sec. 34. NRS 298.109 is hereby amended to read as follows:

298.109 1. A person who desires to be an independent candidate for the office of President of the United States must, not later than 5 p.m. on the second Friday in August in each year in which a presidential election is to be held, pay a filing fee of \$250 and file with the Secretary of State a declaration of candidacy and a petition of candidacy, in which the person must also designate a nominee for Vice President. The petition must be signed by a number of registered voters equal to not less than 1 percent of the total number of votes cast at the last preceding general election for candidates for the offices of Representative in Congress and must request that the names of the proposed candidates be placed on the ballot at the general election that year. The candidate shall file a copy of the petition the person intends to circulate for signatures with the Secretary of State ~~[-] before the petition may be circulated for signatures.~~

2. The petition may consist of more than one document. Each document must bear the name of a county and only registered voters of that county may sign the document. The documents which are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition of candidacy with the Secretary of State pursuant to subsection 1. Each person signing shall add to his or her signature the address of the place at which he or she resides, the date that he or she signs and the name of the county wherein he or she is registered to vote. Each document of the petition must also contain the affidavit of the person who circulated the document that all signatures thereon are genuine to the best of the person's knowledge and belief and were signed in his or her presence by persons registered to vote in that county.

3. If the candidacy of any person who seeks to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed with the First Judicial District Court not later than 5 p.m. on the fourth Tuesday in August. Any judicial proceeding relating to the challenge must be set for hearing not later than 5 days after the fourth Tuesday in August.

4. The county clerk shall not disqualify the signature of a voter who fails to provide all the information required by this section if the voter is registered in the county named on the document.

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. 1. This ~~act becomes~~ section and sections 1 to 23, inclusive, 24, 25, 26, 27, 28, 29 and 30 to 38, inclusive, of this act become effective on July 1, 2017.

2. Sections 23.5, 23.7, 24.2, 24.5, 25.2, 25.4, 26.5, 27.1, 27.11 and 27.2 of this act become effective on:

(a) January 1, 2018, for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) January 1, 2019, for all other purposes.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 953 to Assembly Bill No. 45 defines "election year" for candidates as the calendar year in which he or she is seeking election or intends to seek election. For ballot questions, "election year" is the calendar year in which the question appears on the ballot; deletes provisions creating a new category of campaign expenses for credit or debit card interest, fees or penalties incurred in relation to a campaign; changes the reporting due dates for all campaign contribution and expense reports to be quarterly. Contribution and expense reports would be due 15 days after the last day of the quarter.

Amendment adopted.

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

Assembly Bill No. 384.

Bill read second time.

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

Amendment No. 952.

SUMMARY—Revises provisions governing the consideration of the criminal history of an applicant for employment by the State or a county, city or unincorporated town. (BDR 23-33)

AN ACT relating to public employment; providing generally that the criminal history of an applicant or other qualified person under consideration for a position in the unclassified or classified service of the State may be considered only ~~after the applicant has been certified by the Administrator of the Division of Human Resource Management of the Department of Administration or after a conditional offer of employment has been made to the applicant;~~ under certain circumstances; prohibiting the Administrator, when examining an applicant for a position in the classified service of the State, from considering the criminal history of the applicant; providing that, except in certain circumstances, the criminal history of a person may serve as the basis for the Administrator to refuse to certify an applicant or for rescission of a conditional offer of employment in the unclassified or classified service of the State only after consideration of certain factors relating to the criminal history of the person; providing for written notice to a person if the criminal history of the person is the basis for the Administrator's refusal to certify the person or for the rescission of a conditional offer of employment; establishing similar provisions relating to the consideration by the governing body of a county, incorporated city or unincorporated town of the criminal history of an applicant for employment by a county, incorporated city or unincorporated town; authorizing the filing of a complaint with the Nevada Equal Rights

Commission under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs generally the employment of persons in the classified and unclassified service of the State. Existing law further establishes the duties of the Administrator of the Division of Human Resource Management of the Department of Administration with regard to administering competitive examinations of persons seeking employment in the classified service of the State and maintaining a list of eligible persons for employment in the classified service. (Chapter 284 of NRS) Under existing law, the Administrator may refuse to examine an applicant or refuse to certify an eligible person if the person has been found guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct. (NRS 284.240)

Section 2 of this bill provides, with exceptions, that the criminal history of an applicant or other qualified person under consideration for employment in the unclassified service of the State may be considered only after ~~and~~ the earliest of: (1) the final interview conducted in person; (2) the appointing authority has made a conditional offer of employment to the applicant ; or ~~or~~ (3) if applicable, the applicant has been certified by the Administrator. Section 3 of this bill prohibits the Administrator from considering the criminal history of an applicant in examining the applicant. Additionally, section 3 provides, with exceptions, that the criminal history of an applicant for a position in the classified service may be considered only after the earliest of: (1) the final interview conducted in person; (2) the applicant has been certified by the Administrator ; or ~~and~~ (3) the appointing authority has made a conditional offer of employment to the applicant. Sections 2 and 3 set forth specific factors that must be considered by an appointing authority or the Administrator before the criminal history of an applicant may be used as the basis for rescinding a conditional offer of employment or for rejection of the applicant, including: (1) whether any criminal offense charged against or committed by the person directly relates to the responsibilities of the position for which the person has applied; (2) the nature and severity of each criminal offense charged against or committed by the person; (3) the age of the person at the time of the commission of each criminal offense; (4) the period of time between the commission of each criminal offense and the date of the application for employment; and (5) any information or documentation demonstrating the person's rehabilitation. Sections 5, 6 and 6.3 of this bill establish similar provisions relating to the consideration by the governing body of a county, incorporated city or unincorporated town, respectively, of the criminal history of an applicant for employment by the county, incorporated city or unincorporated town. Sections 2, 3, 5, 6 and 6.3 provide that if the criminal history of an applicant is used as the basis for rejecting the applicant or rescinding a conditional offer of employment extended to the applicant, the appointing authority or the governing body of the county, incorporated city or unincorporated town, as applicable, must provide to the applicant a written

statement which must specifically state the evidence presented and the reason for the rejection of the applicant or rescission of the conditional offer of employment. Sections 2, 3, 5, 6 and 6.3 also prohibit the appointing authority or the governing body of a county, incorporated city or unincorporated town from considering certain criminal records. Sections 2, 3, 5, 6 and 6.3 also require the appointing authority or the governing body of a county, incorporated city or unincorporated town to include certain information in an application for employment. Sections 2, 3, 5, 6 and 6.3 do not apply to ~~[applicants]~~ any applicant for employment ~~[with a public safety agency]~~ : (1) as a peace officer or firefighter; or (2) in any position that entails physical access to a computer or other equipment used for access to the Nevada Criminal Justice Information System or the National Crime Information Center.

Existing law declares certain employment practices to be unlawful and authorizes any person injured by such a practice to file a complaint with the Nevada Equal Rights Commission. Generally, the Commission has jurisdiction only over practices involving discrimination on the basis of race, color, sex and certain other enumerated characteristics. (NRS 613.330, 613.405) Section 6.5 of this bill provides that an employer that is subject to the requirements of section 2, 3, 5, 6 or 6.3 and fails to follow the procedure required by those sections in considering the criminal history of an applicant for employment thereby engages in an unlawful employment practice. Section 6.7 of this bill provides that the applicant in such a case may file a complaint with the Commission, regardless of whether the complaint is based on race, color, sex or some other characteristic enumerated in existing law.

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

Section 1. Chapter 284 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. ~~[Except as otherwise authorized by specific statute,]~~ Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the criminal history of an applicant or other qualified person for a position in the unclassified service of the State may be considered only after ~~and~~ the earliest of:

- (a) The final interview conducted in person;
- (b) The appointing authority has extended to the applicant a conditional offer of employment ~~for, if~~ ; or
- (c) If applicable, the applicant has been certified by the Administrator.

2. An appointing authority may, before examining an applicant or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the

particular criminal history of the person, an appointing authority may rescind a conditional offer of employment extended to an otherwise qualified person who has criminal charges pending against him or her that were filed within the previous 6 months or has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense charged against the person or committed by the person directly relates to the responsibilities of the position for which the person has applied or is being considered;

(b) The nature and severity of each criminal offense charged against the person or committed by the person;

(c) The age of the person at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for employment in the unclassified service; and

(e) Any information or documentation demonstrating the person's rehabilitation.

4. An appointing authority shall not consider any of the following criminal records in connection with an application for employment:

(a) ~~Any~~ Except as otherwise provided in subsection 3, an arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rescinding a conditional offer of employment, rescission of the conditional offer of employment must:

(a) Be made in writing;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rescission of the offer; and

(c) Provide an opportunity for the applicant to discuss the basis for the rescission of the offer with the ~~appointing authority,~~ director of human resources for the appointing authority or a person designated by the director.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The appointing authority will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to ~~applicants~~ any applicant for employment ~~with a public safety agency, as defined in NRS 239B.020.~~ ;

(a) As a peace officer or firefighter; or

(b) In any position that entails physical access to a computer or other equipment used for access to the Nevada Criminal Justice Information System or the National Crime Information Center.

Sec. 3. 1. ~~{Except as otherwise authorized by specific statute:}~~ Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person:

(a) The Administrator shall not consider the criminal history of an applicant in examining the applicant.

(b) The criminal history of an applicant for a position in the classified service may be considered only after the earliest of:

(1) The final interview conducted in person;

(2) The applicant has been certified by the Administrator ; or ~~and~~

(3) The appointing authority has extended to the applicant a conditional offer of employment.

2. The Administrator may, before examining an applicant or certifying an eligible person, notify the applicant or eligible person of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the Administrator may refuse to certify an eligible person and an appointing authority may rescind a conditional offer of employment extended to an otherwise qualified person who has criminal charges pending against him or her that were filed within the previous 6 months or has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense charged against the person or committed by the person directly relates to the responsibilities of the position for which the person has applied or is being considered;

(b) The nature and severity of each criminal offense charged against the person or committed by the person;

(c) The age of the person at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for or consideration of employment in the classified service; and

(e) Any information or documentation demonstrating the person's rehabilitation.

4. The Administrator shall not consider any of the following criminal records in connection with an application for employment:

(a) ~~Any~~ Except as otherwise provided in subsection 3, an arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of a conditional offer of employment must:

(a) Be made in writing;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rejection or rescission of the offer; and

(c) Provide an opportunity for the applicant to discuss the basis for the rejection or rescission of the offer with the ~~Administrator.~~ director of human resources for the appointing authority or a person designated by the director.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The Administrator will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to ~~applicants~~ any applicant for employment with a public safety agency, as defined in NRS 239B.020.

(a) As a peace officer or firefighter; or

(b) In any position that entails physical access to a computer or other equipment used for access to the Nevada Criminal Justice Information System or the National Crime Information Center.

Sec. 4. NRS 284.240 is hereby amended to read as follows:

284.240 The Administrator may refuse to examine an applicant or, after examination, may refuse to certify an eligible person who:

1. Lacks any of the preliminary requirements established for the examination for the position or employment for which the applicant or eligible person applies.

2. Submitted to a screening test administered pursuant to NRS 284.4066, the results of which indicated the presence of a controlled substance, and the person did not provide the proof required by NRS 284.4066.

3. ~~Has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct.~~

~~4.~~ Has been dismissed from the public service for delinquency or misconduct.

~~5.~~ 4. Has made a false statement of any material fact.

~~6.~~ 5. Has, directly or indirectly, given, rendered or paid, or promised to give, render or pay, any money, service or other valuable thing to any person for, or on account of or in connection with, the examination, appointment or proposed appointment of the applicant or eligible person.

~~{7.}~~ 6. Has practiced, or attempted to practice, any deception or fraud in the application, certificate or examination of the applicant or eligible person, or in securing the eligibility or appointment of the applicant or eligible person.

Sec. 5. Chapter 245 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Except as otherwise authorized by specific statute,~~ Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the criminal history of an applicant for employment by a county may be considered only after the ~~applicant is a finalist for a position~~ earlier of:

(a) The final interview conducted in person; or ~~the~~
(b) The county has extended to the applicant a conditional offer of employment.

2. The board of county commissioners, a county officer or any other person acting on behalf of a county may, before selecting an applicant as a finalist for a position or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the board of county commissioners, a county officer or any other person acting on behalf of a county may decline to make an offer of employment or rescind a conditional offer of employment extended to an otherwise qualified applicant who has criminal charges pending against him or her that were filed within the previous 6 months or has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense charged against the applicant or committed by the applicant directly relates to the responsibilities of the position for which the applicant has applied;

(b) The nature and severity of each criminal offense charged against the applicant or committed by the applicant;

(c) The age of the applicant at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for employment; and

(e) Any information or documentation demonstrating the applicant's rehabilitation.

4. The board of county commissioners, a county officer or any other person acting on behalf of a county shall not consider any of the following criminal records in connection with an application for employment:

(a) ~~An~~ Except as otherwise provided in subsection 3, an arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of a conditional offer of employment must:

(a) Be made in writing;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rejection or rescission of the offer; and

(c) Provide an opportunity for the applicant to discuss the basis for the rejection or rescission of the offer with the ~~[board of county commissioners, a county officer or other person acting on behalf of the county.]~~ director of the department of human resources of the county or a person designated by the director.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The board of county commissioners, a county officer or any other person acting on behalf of the county will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to ~~[applicants]~~ any applicant for employment with a public safety agency, as defined in NRS 239B.020.] :

(a) As a peace officer or firefighter; or

(b) In any position that entails physical access to a computer or other equipment used for access to the Nevada Criminal Justice Information System or the National Crime Information Center.

Sec. 6. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Except as otherwise authorized by specific statute,]~~ Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the criminal history of an applicant for employment by an incorporated city may be considered only after the ~~[applicant is a finalist for a position]~~ earlier of:

(a) The final interview conducted in person; or [the]

(b) The incorporated city has extended to the applicant a conditional offer of employment.

2. The governing body of an incorporated city or a city officer may, before selecting an applicant as a finalist for a position or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state

or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the governing body or a city officer may decline to make an offer of employment or rescind a conditional offer of employment extended to an otherwise qualified applicant who has criminal charges pending against him or her that were filed within the previous 6 months or has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense charged against the applicant or committed by the applicant directly relates to the responsibilities of the position for which the applicant has applied;

(b) The nature and severity of each criminal offense charged against the applicant or committed by the applicant;

(c) The age of the applicant at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for employment; and

(e) Any information or documentation demonstrating the applicant's rehabilitation.

4. The governing body of an incorporated city or a city officer shall not consider any of the following criminal records in connection with an application for employment:

(a) ~~Any~~ Except as otherwise provided in subsection 3, an arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of a conditional offer of employment must:

(a) Be made in writing;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rejection or rescission of the offer; and

(c) Provide an opportunity for the applicant to discuss the basis for the rejection or rescission of the offer with the ~~governing body of an incorporated city or a city officer.~~ director of the department of human resources of the incorporated city or a person designated by the director.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The governing body of an incorporated city or a city officer will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) *The severity and nature of the offense;*

(4) *The relationship of the offense to the position for which the applicant has applied; and*

(5) *Evidence of the rehabilitation of the applicant.*

7. *This section does not apply to ~~applicant~~ any applicant for employment ~~with a public safety agency, as defined in NRS 239B.020.~~ :*

(a) As a peace officer or firefighter; or

(b) In any position that entails physical access to a computer or other equipment used for access to the Nevada Criminal Justice Information System or the National Crime Information Center.

Sec. 6.3. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Except as otherwise authorized by specific statute,~~ *Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the criminal history of an applicant for employment by an unincorporated town may be considered only after the ~~applicant is a finalist for a position~~ earlier of:*

(a) The final interview conducted in person; or ~~the~~

(b) The unincorporated town has extended to the applicant a conditional offer of employment.

2. *The town board, the board of county commissioners or any other person acting on behalf of an unincorporated town may, before selecting an applicant as a finalist for a position or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.*

3. *Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the town board, the board of county commissioners or any other person acting on behalf of an unincorporated town may decline to make an offer of employment or rescind a conditional offer of employment extended to an otherwise qualified applicant who has criminal charges pending against him or her that were filed within the previous 6 months or has been convicted of a criminal offense only after considering:*

(a) Whether any criminal offense charged against the applicant or committed by the applicant directly relates to the responsibilities of the position for which the applicant has applied;

(b) The nature and severity of each criminal offense charged against the applicant or committed by the applicant;

(c) The age of the applicant at the time of the commission of each offense;

(d) The period between the commission of each criminal offense and the date of the application for employment; and

(e) Any information or documentation demonstrating the applicant's rehabilitation.

4. A town board, the board of county commissioners or any other person acting on behalf of an unincorporated town shall not consider any of the following criminal records in connection with an application for employment:

(a) ~~Any~~ Except as otherwise provided in subsection 3, an arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor in which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of the offer of employment must:

(a) Be made in writing;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rejection or rescission of the offer; and

(c) Provide an opportunity for the applicant to discuss the basis for the rejection or rescission of the offer with the ~~town board, the board of county commissioners or any other person acting on behalf of the unincorporated town.~~ director of the department of human resources of the unincorporated town or a person designated by the director.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The town board, the board of county commissioners or any other person acting on behalf of the unincorporated town will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to ~~applicants~~ any applicant for employment with a public safety agency, as defined in NRS 239B.020.1.

(a) As a peace officer or firefighter; or

(b) In any position that entails physical access to a computer or other equipment used for access to the Nevada Criminal Justice Information System or the National Crime Information Center.

Sec. 6.5. NRS 613.330 is hereby amended to read as follows:

613.330 1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race,

color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

2. It is an unlawful employment practice for an employment agency to:

(a) Fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person; or

(b) Classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. Except as otherwise provided in subsection 6, it is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of

employment, except that an employer may refuse to permit an employee to keep a service animal that is a miniature horse with him or her if the employer determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.

7. *It is an unlawful employment practice for an appointing authority governed by the provisions of chapter 284 of NRS, the Administrator of the Division of Human Resource Management of the Department of Administration or the governing body of a county, incorporated city or unincorporated town to consider the criminal history of an applicant for employment without following the procedure required in section 2, 3, 5, 6 or 6.3 of this act, as applicable.*

8. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097.

Sec. 6.7. NRS 613.405 is hereby amended to read as follows:

613.405 ~~{Any}~~

1. *Except as otherwise provided in subsection 2, any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.*

2. *Any person injured by an unlawful employment practice within the scope of subsection 7 of NRS 613.330 may file a complaint to that effect with the Nevada Equal Rights Commission regardless of whether the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.*

Sec. 7. This act becomes effective on January 1, 2018.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 952 to Assembly Bill No. 384 authorizes consideration of the criminal history of an applicant at the outset of the selection process if he or she is disqualified from employment pursuant to a specific provision of State or federal law; authorizes the employer to rescind a conditional offer of employment to an applicant against whom certain criminal charges are pending; provides that the criminal history of an applicant may only be considered after the earliest of the final in-person interview, a conditional job offer or the certification of the applicant by the Administrator; clarifies that the provisions of the bill do not apply to peace officers, firefighters and any applicant for a job that allows direct or indirect access to certain criminal databases or information; and allows discussion of an applicant's rejection or rescission with the director of the human resources department or a person designated by the director.

Amendment adopted.

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

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 413.

The following Assembly amendment was read:

Amendment No. 839.

SUMMARY—Establishes "Public Lands Day" in the State of Nevada. (BDR 19-772)

AN ACT relating to public lands; establishing the last Saturday in September of each year as "Public Lands Day" in the State of Nevada; ~~requiring~~ authorizing the Governor to issue annually a proclamation encouraging the observance of Public Lands Day; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, various days and weeks of observance are recognized in this State. (NRS 236.018-236.085) Section 1 of this bill establishes the last Saturday in September of each year as "Public Lands Day" in the State of Nevada and ~~requires~~ authorizes the Governor to issue annually a proclamation encouraging the observance of Public Lands Day.

WHEREAS, In 1994, National Public Lands Day was established, with 700 volunteers working at three sites and, since then, the activities relating to National Public Lands Day have expanded to include new places, projects and persons; and

WHEREAS, More than 80 percent of the public lands in this State are owned by the people of the United States and are managed by various federal agencies for the benefit of all persons living in the United States; and

WHEREAS, The public lands in this State include national parks, national monuments, national conservation areas, national forests, national wildlife refuges, wilderness areas and public lands managed by the Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, the National Park Service and other federal agencies; and

WHEREAS, All public lands located in this State feature a diverse array of landscapes, from sculpted desert sandstone to dramatic limestone cliffs with caves

and fossils, from colorful volcanic ranges to the high peaks with ancient bristlecone pine and lush oases that stand in sharp contrast to open sagebrush valleys; and

WHEREAS, The public lands in this State protect vital pieces of our region's past and important cultural heritages, including the remnants of ancient civilizations that once thrived in the region and whose ancestors still protect their legacy, deserted mining settlements where riches were made and lost and contemporary works of art, all waiting to be discovered by current and future generations of Nevadans; and

WHEREAS, The public lands in this State reflect many noble democratic ideals because they are open and accessible to all persons, regardless of whether those persons are rich or poor; and

WHEREAS, The public lands in this State provide many benefits to the residents of this State and support a wide variety of activities, including recreational pursuits and the development of natural resources; and

WHEREAS, Outdoor recreation is dependent on access to public lands and is an essential part of the economy of this State, generating \$14.9 billion in

consumer spending, \$1 billion in state and local tax revenue and 148,000 direct Nevada jobs in this State; and

WHEREAS, Large-scale transfers of the federal public lands in this State from the people of the United States into state or private control are contrary to the democratic values of the United States and jeopardize activities such as hiking, camping, hunting, fishing and off-road pursuits; and

WHEREAS, In 1864, Congress enacted a law (13 United States Statutes at Large (1864), pp. 30-32), commonly referred to as the Enabling Act, which authorized the people of the Territory of Nevada to form a constitution and state government, and provided for the admission of the State of Nevada into the Union; and

WHEREAS, As required by the Enabling Act, the Nevada Constitution includes an ordinance, immediately preceding the preamble to the Nevada Constitution, which states, in part, that the "people inhabiting [this State] do agree and declare, that they forever disclaim all right and title to the unappropriated public lands lying within [this State], and that the same shall be and remain at the sole and entire disposition of the United States"; and

WHEREAS, At the general election held in 1996, those provisions of the Nevada Constitution were repealed, effective on the date Congress consents to the amendment or on a legal determination that the consent of Congress is not necessary; and

WHEREAS, The residents of this State support national efforts to promote the stewardship and celebration of all public lands in this State: now therefore,

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

Section 1. Chapter 236 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The last Saturday in September of each year is established as "Public Lands Day" in the State of Nevada.*

2. *The Governor ~~shall~~ may issue annually a proclamation encouraging the observance of Public Lands Day. The proclamation shall, without limitation:*

(a) Call upon the news media, state and local officers, private nonprofit groups and foundations, schools, businesses and other public and private entities to bring to the attention of the residents of this State the importance of the public lands in the State of Nevada;

(b) Recognize the economic, scenic, historical, scientific, aesthetic and other values of the public lands in the State of Nevada; and

(c) Encourage the residents of the State of Nevada to engage in volunteer stewardship activities which contribute to the conservation of the unique public lands which are only found in the State of Nevada.

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

Senator Parks moved that the Senate concur in Assembly Amendment No. 839 to Senate Bill No. 413.

Remarks by Senator Parks.

This amendment removes the requirement that the Governor issue an annual proclamation and allows the Governor to authorize the issuance of a proclamation.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 47.

The following Assembly amendment was read.

Amendment No. 832.

SUMMARY—Makes various changes relating to the appropriation of water. (BDR 48-499)

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

Legislative Counsel's Digest:

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

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

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

Upon approving an application for a permit to appropriate water, existing law authorizes the State Engineer to extend the deadline by which construction related to the appropriation of water or the application of water to a beneficial use must be completed or made. A single extension for a municipal or quasi-municipal use for a public water system may not exceed 5 years and an

extension for any other use may not exceed 1 year. (NRS 533.380) Section 4 of this bill increases to 5 years the period of a single extension for a use other than for a municipal or quasi-municipal use for a public water system and requires an application to extend the deadline to include evidence of good faith on the part of the applicant in pursuing the perfection of the application.

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

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

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

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

Existing law requires, under certain circumstances, the State Engineer to notify the owner of a water right that the owner has 1 year after the date of the notice to either: (1) use the water right beneficially and provide proof of such use to the State Engineer; or (2) apply to the State Engineer for an extension of time to work a forfeiture of the water right. If, after 1 year after the date of the notice, the owner of the water right has not taken either action, the State Engineer is required to declare the right forfeited within 30 days. (NRS 534.090) Section 9 of this bill requires the State Engineer to send a final notice to the owner of the water right before the 30-day period begins. Section 9 also provides certain additional factors which the State Engineer is required to consider when deciding whether to grant an extension of time to work a forfeiture.

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

Under existing law, the Southern Nevada Water Authority and the Advisory Committee are required to hold at least annually a joint workshop to discuss issues related to the basin and the management program. (Section 11 of chapter 572, Statutes of Nevada 1997, p. 2801) Section 17 of this bill

eliminates the required participation of the Advisory Committee in the workshop. Section 18 of this bill makes a conforming change.

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

Section 1. Chapter 532 of NRS is hereby amended by adding thereto a new section to read as follows:

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

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

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

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

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

533.024 The Legislature declares that:

1. It is the policy of this State:

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

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectable interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. A description of the proposed works.

7. The estimated cost of such works.

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

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

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

533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and subsection 2 of NRS 533.370, when an application is filed in compliance with this chapter, the State Engineer shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general circulation ~~and printed and published~~ in the county where the ~~water is sought to be appropriated,~~ *point of diversion is located*, a notice of the application which sets forth:

(a) That the application has been filed.

(b) The date of the filing.

(c) The name and address of the applicant.

(d) The name of the source from which the appropriation is to be made.

(e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.

(f) The purpose for which the water is to be appropriated.

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

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

3. If the application is for a proposed well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

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

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

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

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

- (a) The total amount of surface water and groundwater appropriated in accordance with a decreed, certified or permitted right;
- (b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and
- (c) The name of each owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.

2. The provisions of this section do not:

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

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

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

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

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

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

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

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

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

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

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

↪ must not be less than 5 years.

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

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, grant any number of extensions of time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by the State Engineer, but a single extension of time ~~{for a municipal or quasi-municipal use for a public water system, as defined in NRS 445A.235,}~~ must not exceed 5 years . ~~{, and any other single extension of time must not exceed 1 year.}~~ An application for the extension must in all cases be:

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

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

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

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

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

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

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

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

(e) The period contemplated in the:

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

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

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

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

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

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

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

(a) The name ~~{and post office address}~~ of each holder of the permit.

(b) The date, source, purpose and amount of appropriation.

(c) If for irrigation, a description of the irrigated lands by legal subdivisions, when possible, to which the water is appurtenant.

(d) The number of the permit under which the certificate is issued.

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

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

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

For examining and filing an application for a permit to

appropriate water..... \$360.00

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

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

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

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

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

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

For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water , *watering livestock* or wildlife purposes..... 360.00
plus \$3 per acre-foot approved or fraction thereof.

Except for generating hydroelectric power , *watering livestock* or wildlife purposes, for issuing and recording each permit to change an existing water right whether temporary or permanent for any purpose 300.00
plus \$3 per acre-foot approved or fraction thereof.

For issuing and recording each permit for additional rate of diversion *from a well* where no additional volume of water is granted 1,000.00

For issuing and recording each permit to change the point of diversion or place of use ~~{only}~~ of an existing right whether temporary or permanent for ~~{irrigational}~~ *irrigation* purposes, a maximum fee of..... 750.00

For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right whether temporary or permanent for watering livestock or wildlife purposes..... 240.00
plus \$50 for each *cubic* foot of water *per second* approved or fraction thereof.

For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water..... 480.00
plus \$50 for each ~~{second}~~ *cubic* foot *per second* of water approved or fraction thereof.

For ~~{issuing}~~ *filing and examining a request for* a waiver in connection with an application to drill a well 120.00

For filing and examining a notice of intent to drill a well	\$25.00
For filing and examining an affidavit to relinquish water rights in favor of use of water for domestic wells	300.00
For filing a secondary application under a reservoir permit	300.00
For approving and recording a secondary permit under a reservoir permit	540.00
For reviewing each tentative subdivision map.....	180.00
plus \$1 per lot.	
For reviewing and approving each final subdivision map	120.00
For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet.....	480.00
plus \$1.25 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For flood control detention basins	480.00
plus \$1.25 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For filing proof of completion of work.....	60.00
For filing proof of beneficial use	60.00
For issuing and recording a certificate upon approval of the proof of beneficial use.....	350.00
For filing proof of resumption of a water right.....	360.00
For filing any protest	30.00
For filing any application for extension of time within which to file proofs, of completion or beneficial use, for each year for which the extension of time is sought.....	120.00
For filing any application for extension of time to prevent a forfeiture, for each year for which the extension of time is sought	120.00
For reviewing a cancellation of a water right pursuant to a petition for review	360.00
For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384.....	120.00
plus \$20 per conveyance document.	
For filing any other instrument	10.00
For making a copy of any document recorded or filed in the Office of the State Engineer, for the first page.....	1.00
For each additional page.....	.20
For certifying to copies of documents, records or maps, for each certificate	6.00
For each copy of any full size drawing or map.....	6.00
For each color copy of any full size drawing or map (2' x 3')	12.00
For the minimum charge for a blueprint copy, per print.....	3.00

For colored mylar plots..... \$10.00

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

3. Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the Water Distribution Revolving Account created pursuant to NRS 532.210. All fees received for ~~blueprint~~ copies of any drawing or map must be kept by the State Engineer and used only to pay the costs of printing, replacement and maintenance of printing equipment. Any publication fees received which are not used by the State Engineer for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, the State Engineer shall deposit the fees in the State Treasury for credit to the Water Distribution Revolving Account created pursuant to NRS 532.210.

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

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

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

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

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

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

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

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

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

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

(4) An affidavit of a disinterested person.

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

sections within a numbered section, township and range as certified by a registered state water right surveyor.

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

533.515 1. No permit for the appropriation of water or application to change the point of diversion, *manner of use or place of use* under an existing water right may be denied because of the fact that the point of diversion described in the application for the permit, or any portion of the works in the application described and to be constructed for the purpose of storing, conserving, diverting or distributing the water are situated in any other state; but in all such cases where the place of intended use, or the lands, or part of the lands ~~{to be irrigated by means of the water,}~~ *identified as the place of use*, are situated within this state, the permit must be issued as in other cases, pursuant to the provisions of NRS 533.324 to 533.450, inclusive, and chapter 534 of NRS.

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

Sec. 9. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right or a right for which a certificate has been issued pursuant to NRS 533.425, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse.

2. If the records of the State Engineer or any other documents ~~{specified}~~ *obtained by or provided to* the State Engineer indicate ~~{at least}~~ *4 or more* consecutive years ~~{, but less than 5 consecutive years,}~~ of nonuse of all or any part of a water right which is governed by this chapter ~~{, the}~~ :

(a) The State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail *of the nonuse and that the owner has 1 year after the date of the notice of nonuse* in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection ~~{2}~~ 3 to avoid forfeiting the water right.

(b) If, after 1 year after the date of the notice ~~{,}~~ *of nonuse pursuant to paragraph (a)*, proof of resumption of beneficial use is not filed in the Office of the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, *send a final notice to the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail, that the water right is held for forfeiture. If the owner of the water right, within 30 days after the date of such final notice, fails to file the required proof of resumption of beneficial use or an application for an extension of time to*

prevent forfeiture, the State Engineer shall declare the right, or the portion of the right not returned to beneficial use, forfeited. ~~[within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon]~~ The State Engineer shall send notice of the declaration of forfeiture, by registered or certified mail, to the owner of record ~~[whose]~~, as determined in the records of the Office of the State Engineer, of the water right that has been declared forfeited. ~~[.]~~

(c) If, after receipt of a notice of the declaration of forfeiture pursuant to paragraph (b), the owner of record of the water right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. ~~[The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.~~

~~—2.]~~ *Upon the forfeiture of the water right, the water reverts to the public and is available for further appropriation, subject to existing rights.*

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

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

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

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) ~~[Any prolonged period in which precipitation in the basin where]~~ Whether the water right is located ~~[is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin;]~~ within a county under a declaration of drought by the Governor, United States Secretary of Agriculture or the President of the United States;

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

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

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

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

(i) *Any orders restricting use or appropriation of water in the basin.*

➔ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether the State Engineer has granted or denied the holder's request for an extension pursuant to this subsection. If the State Engineer grants an extension pursuant to this subsection and, before the expiration of that extension, proof of resumption of beneficial use or another request for an extension is not filed in the Office of the State Engineer, the State Engineer shall *send a final notice to the owner of the water right, by registered or certified mail, that the water right will be declared forfeited if the owner of the water right fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture within 30 days after the date of the final notice. If the owner of the water right fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture within 30 days after the date of such final notice, the State Engineer shall declare the water right, or the portion of the right not returned to beneficial use, forfeited.* ~~[within 30 days after the expiration of the extension granted pursuant to this subsection.]~~

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

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

5. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his or her examination that an abandonment has taken place, the State Engineer shall so state in the ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT OF REPEALED SECTION

Section 9 of Chapter 572, Statutes of Nevada 1997:

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

Senator Cancela moved that the Senate do not concur in Assembly Amendment No. 832 to Senate Bill No. 47.

Remarks by Senator Cancela.

Quite simply, we have some issues to work out with this bill.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 37, 163, 165, 255, 308, 311, 374, 396, 416, 422, 429, 434, 447, 454, 462, 466, 469, 473, 476, 480, 493, 499, 510, 513, 515.

Senator Ford moved that the Senate adjourn until Friday, May 26, 2017, at 11:00 a.m.

Motion carried.

Senate adjourned at 7:20 p.m.

Approved:

MARK A. HUTCHISON

President of the Senate

Attest: CLAIRE J. CLIFT

Secretary of the Senate