

NEVADA LEGISLATURE

Eighty-Second Session, 2023

ASSEMBLY DAILY JOURNAL

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 19, 2023

Assembly called to order at 11:51 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Peggy Locke.

The Bible tells us in Isaiah 26:2-5, Open the gates that the righteous nation that keeps faith may enter in. You will keep him in perfect peace whose minds are stayed on You because he trusts in You. Trust in the Lord forever, for the Lord God is an everlasting rock.

Heavenly Father, we give You thanks in the midst of life's interruptions and challenges for Your faithfulness in all situations. We are confident in Your steadfast love, divine interventions, and mighty hand. When we are afraid, we will trust in You, in God whose word we praise.

We commit to You today in prayer: our families, co-workers, and those serving with all diligence in harm's way. Protect them and their families.

Lead us and guide us today with Your wisdom and grace. We thank You for help in our conversations, actions, and thoughts. May we walk with integrity and always speak the truth from our hearts.

And this blessing out of Numbers 6:24-26, May the Lord bless you and keep you; the Lord make his face to shine upon you and be gracious to you; the Lord lift up his countenance upon you and give you peace.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:03 p.m.

ASSEMBLY IN SESSION

At 12:05 p.m.
Mr. Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 127, 318, 321, 334, 398, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 223, 392, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELAINE MARZOLA, *Chair*

Mr. Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 175, 256, 274, 279, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHANNON BILBRAY-AXELROD, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 171, 173, 222, 252, 376, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was rereferred Assembly Bill No. 423, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SELENA TORRES, *Chair*

Mr. Speaker:

Your Committee on Growth and Infrastructure, to which were referred Assembly Bills Nos. 316, 407, 425, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

HOWARD WATTS, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 135, 169, 197, 259, 293, 338, 358, 403, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SARAH PETERS, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 14, 55, 125, 126, 257, 275, 342, 373, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 49, 193, 355, 356, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BRITTNEY MILLER, *Chair*

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 190, 399, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHELLE GORELOW, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, to which were referred Assembly Bills Nos. 70, 184, 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

LESLEY E. COHEN, *Chair*

Mr. Speaker:

Your Committee on Revenue, to which were referred Assembly Bills Nos. 77, 261, 409, 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, to which was referred Assembly Bill No. 455, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEA BACKUS, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 17, 2023

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 8, 16, 18, 29, 67, 80, 110, 129, 153, 177, 181, 182, 210, 223, 250, 331.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 44, 76.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Joint Resolution No. 7.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, April 18, 2023

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 19, 97.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 2, 3, 5, 34, 42, 55, 62, 81, 87, 109, 115, 117.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Joint Resolution No. 7.

Assemblywoman Gorelow moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

NOTICE OF EXEMPTION

April 17, 2023

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of Senate Bills Nos. 41, 88, 166, 167, 176, 232, 237, 241, 297, 311, 380, 387, 428.

WAYNE THORLEY
Fiscal Analysis Division

April 18, 2023

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of Assembly Bills Nos. 11, 32, 41, 168, 226, 257.

SARAH COFFMAN
Fiscal Analysis Division

April 18, 2023

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of Senate Bills Nos. 47, 94, 112, 191, 225, 271, 275, 276, 301, 364.

WAYNE THORLEY
Fiscal Analysis Division

Assemblywoman Jauregui moved that the person as set forth on the Nevada Legislature's Press Accreditation List of April 19, 2023, be accepted as an accredited press representative, assigned space at the press table in the Assembly Chamber, allowed the use of appropriate broadcasting facilities, and that the list be included in this day's journal.

KRNV News 4: Justin Case.

Motion carried.

Assemblywoman Jauregui moved that Assembly Bills Nos. 50 and 188 be taken from the General File and placed on the Chief Clerk's Desk.

Motion carried.

Assemblywoman Jauregui moved that Assembly Bill No. 231 be taken from the Chief Clerk's Desk and placed on General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 2.

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

Motion carried.

Senate Bill No. 3.

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

Motion carried.

Senate Bill No. 5.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 8.

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

Motion carried.

Senate Bill No. 16.

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

Motion carried.

Senate Bill No. 18.

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

Motion carried.

Senate Bill No. 19.

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

Motion carried.

Senate Bill No. 29.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Revenue.

Motion carried.

Senate Bill No. 34.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 42.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 44.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 55.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 62.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 67.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 76.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Senate Bill No. 80.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 81.

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

Motion carried.

Senate Bill No. 87.

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

Motion carried.

Senate Bill No. 97.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 109.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 110.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Growth and Infrastructure.

Motion carried.

Senate Bill No. 115.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Senate Bill No. 117.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 129.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 153.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 177.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 181.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Revenue.

Motion carried.

Senate Bill No. 182.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Growth and Infrastructure.

Motion carried.

Senate Bill No. 210.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 223.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 250.

Assemblywoman Jauregui moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 331.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 8.

Bill read second time.

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

Amendment No. 330.

AN ACT relating to metropolitan police departments; revising the membership of a metropolitan police committee on fiscal affairs to add one additional member from the participating political subdivision that is a county ~~[making the]~~ **and one additional** member selected by the committee from the general public ~~; [a nonvoting member];~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a metropolitan police committee on fiscal affairs in a county which has established a metropolitan police department and sets forth the membership as two representatives from each participating political subdivision and one member selected by the committee from the general public. (NRS 280.010, 280.080, 280.130) **Section 1** of this bill ~~[(1)]~~ adds to the committee **;(1)** one additional member from a participating political subdivision that is a county; and (2) ~~[(makes the)]~~ **one additional** member selected by the committee from the general public ~~[(a nonvoting member)]~~. ~~Section 2 of this bill provides that the person who is a member of the committee from the general public continues to be a voting member until that member's successor is selected.]~~

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

Section 1. NRS 280.130 is hereby amended to read as follows:

280.130 1. The committee consists of ~~[(two)]~~ :

(a) **Three** representatives from ~~[(each)]~~ **the** participating political subdivision ~~[(that is a county; and)]~~

(b) **Two representatives from each participating political subdivision that is not a county.**

2. Representatives of the participating political subdivisions are not entitled to receive any additional compensation or be reimbursed by the department for any expenses incurred while serving on the committee.

3. Each representative of a participating political subdivision must be a member of its governing body and serves at the pleasure of the governing body making the appointment.

4. The members of the committee shall, by majority vote, select an additional ~~[(a nonvoting member)]~~ **two members** of the committee from the general public from a list consisting of three persons nominated by each participating political subdivision and three persons nominated by the sheriff.

~~[(That person)]~~ **Those persons:**

(a) Must **each** reside in the area served by the department.

(b) Shall **each** serve until August 1 next succeeding and until a successor is selected.

(c) May **each** succeed himself or herself.

(d) ~~[(He)]~~ **Are** entitled to receive as compensation \$40 for each day of service.

(e) ~~[(He)]~~ **Are** entitled to reimbursement for necessary travel and per diem expenses in the manner provided by the committee for the reimbursement of officers and employees of the department.

5. If the members of the committee fail to agree on the additional ~~[(member)]~~ **members** to be selected pursuant to subsection 4 within 30 days after their initial meeting following the merger or by August 1 of any year thereafter, the additional ~~[(member)]~~ **members** of the committee must be appointed by the

Governor without regard to the lists submitted. The ~~[person]~~ **persons** so appointed must reside in the area served by the department.

6. At its first meeting and in August of each year thereafter, the committee shall select one of its members to act as chair.

Sec. 2. ~~[1. Notwithstanding the provisions of subsection 4 of NRS 280.130, as amended by section 1 of this act, the person who is a member of the committee from the general public on June 30, 2023, continues to be a voting member of the committee until that member's successor is selected pursuant to NRS 280.130, as amended by section 1 of this act.~~

~~2. As used in this section, "committee" has the meaning ascribed to it in NRS 280.045.]~~ **(Deleted by amendment.)**

Sec. 3. This act becomes effective on July 1, 2023.

Assemblywoman Torres moved the adoption of the amendment.

Remarks by Assemblywoman Torres.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 32.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 57.

AN ACT relating to criminal justice; **providing that information collected or stored by the Department of Sentencing Policy for the purpose of analyzing and understanding the criminal justice system is confidential;** revising the qualifications of the Executive Director of the Department ~~;~~ ~~[of Sentencing Policy;]~~ revising provisions concerning the membership of the Nevada Sentencing Commission; **requiring that certain data tracked and assessed by the Commission include the housing status of persons admitted to and released from prison; authorizing the Nevada Local Justice Reinvestment Coordinating Council to accept any gift, donation, bequest, grant or other source of money for the purpose of carrying out its duties;** revising provisions relating to risk and needs assessments administered to certain probationers and parolees; authorizing the Division of Parole and Probation of the Department of Public Safety to impose confinement in a jail or detention facility or place a person under a system of active electronic monitoring for technical violations of the conditions of probation or parole; requiring the system of graduated sanctions adopted by the Division to include guidance on the use of such confinement and electronic monitoring; revising the definition of "technical violation" as the term relates to violations of the conditions of probation or parole; revising provisions relating to the temporary and full revocation of probation, suspension of sentence or parole supervision for technical violations of the conditions of probation or parole; **requiring the Department of Sentencing Policy to collect and analyze certain data and submit a report to the Director of the**

Legislative Counsel Bureau; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Department of Sentencing Policy (**hereinafter “Department”**) and requires the Governor to appoint the Executive Director of the Department from a list of three persons recommended by the Nevada Sentencing Commission ~~[[~~ (**hereinafter “Commission”**). Existing law also requires the Executive Director to be an attorney who is licensed to practice law in this State. (NRS 176.01323) **Section ~~[[~~ 1.7** of this bill: (1) specifies that the three persons recommended by the Commission must be qualified persons; and (2) removes the requirement that the Executive Director must be an attorney who is licensed to practice law in this State.

Section 1 of this bill provides that any information collected or stored by the Department for the purpose of analyzing and understanding the criminal justice system is confidential and not a public record. Section 8.3 of this bill makes a conforming change to indicate that such information is exempt from the requirement that public books and public records of a governmental entity must be open to inspection. Section 1.3 of this bill makes a conforming change to indicate the proper placement of section 1 in the Nevada Revised Statutes.

Existing law establishes requirements concerning the membership of the Commission, including that: (1) one member must be a representative of the Division of Parole and Probation of the Department of Public Safety (**hereinafter “Division”**) who is appointed by the Governor; and (2) one member must be the Director of the Department of Employment, Training and Rehabilitation. (NRS 176.0133) **Section 2** of this bill provides that: (1) the Chief Parole and Probation Officer may alternatively be a member of the Commission; (2) if a representative of the Division is a member of the Commission, he or she is appointed by the Chief instead of the Governor; and (3) a representative of the Department of Employment, Training and Rehabilitation who is appointed by the Director of the Department of Employment, Training and Rehabilitation may alternatively be a member of the Commission.

Existing law imposes certain duties on the Commission, including the tracking and assessment of data from the Department of Corrections concerning prison admissions, parole and release from prison. (NRS 176.01343) Section 2.3 of this bill requires such data to include the housing status of persons admitted to and released from prison.

Existing law creates the Nevada Local Justice Reinvestment Coordinating Council, which: (1) advises the Commission on matters related to certain legislation, regulations, rules, budgetary changes and other actions concerning local governments; (2) identifies county-level programming and treatment needs for persons involved in the criminal justice system for the purpose of reducing recidivism; (3) makes recommendations to the Commission regarding certain grants; (4)

oversees the implementation of and creates performance measures to assess the effectiveness of certain grants; and (5) identifies opportunities for collaboration with the Department of Health and Human Services for treatment services and funding. (NRS 176.014) Section 2.7 of this bill authorizes the Council to accept any gift, donation, bequest, grant or other source of money for the purpose of carrying out its duties.

Existing law requires the Division to administer a risk and needs assessment to certain probationers and parolees under the supervision of the Division and, on a schedule determined by the Nevada Risk Assessment System or more often if necessary, administer a subsequent risk and needs assessment to such probationers and parolees. (NRS 176A.435, 213.1078) **Sections 3 and 6** of this bill provide that a subsequent risk and needs assessment will be administered on a schedule determined by the appropriate risk **and needs** assessment tool instead of by the Nevada Risk Assessment System. ~~Existing law provides that if a term or condition of probation or the level of supervision set is found not to align with the results of a risk and needs assessment, the supervising officer is required to notify the court of the finding and the court may modify the terms of probation. (NRS 176A.435)) Existing law [also]~~ provides that if a condition of parole or the level of parole supervision set is found not to align with the results of a risk and needs assessment, the supervising officer is required to submit a request to the State Board of Parole Commissioners (**hereinafter “Board”**) to modify the condition or level of supervision. (NRS 213.1078) **Section 6** ~~revises such a procedure to mirror the procedure used with regard to probation by requiring the supervising officer to notify the Board of a finding that a condition of parole or the level of parole supervision does not align with the results of a risk and needs assessment and authorizing the Board to modify the condition or level of supervision.]~~ **removes such provisions.**

Existing law requires the Division to adopt a written system of graduated sanctions for use by parole and probation officers when responding to a technical violation of the conditions of probation or parole. (NRS 176A.510, 213.15101) **Sections 4 and 7** of this bill, respectively, provide that as part of the system of graduated sanctions, the Division is authorized, in response to a technical violation of parole or probation, to: (1) impose confinement in a jail or detention facility for a period of not more than 10 days, not to exceed 30 days in the aggregate; or (2) place the person under a system of active electronic monitoring for a period of not more than 60 days using an electronic device approved by the Division. **Sections 4 and 7** also require a system of graduated sanctions to include guidance on the use of such confinement in a jail or detention facility and electronic monitoring. **Sections 4 and 7** additionally revise the definition of “technical violation” to exclude, as applicable: (1) certain violations of probation or suspension of sentence by a sex offender or a person convicted of stalking with the use of electronic means, an offense involving pornography with a minor or luring a child or person with a mental illness through the use of electronic means; (2) certain violations of

parole by a prisoner convicted of a sexual offense, a prisoner who is a Tier 3 offender convicted of a sexual offense against a child under 14 years of age or a prisoner convicted of stalking with the use of electronic means, an offense involving pornography with a minor or luring a child or person with a mental illness through the use of electronic means; and (3) termination from certain treatment programs.

Existing law provides that if a probationer or parolee commits one or more technical violations of the conditions of probation or parole, a court or the Board, as applicable, may take certain actions, including: (1) temporarily revoking the probation, suspension of sentence or parole supervision and imposing a term of imprisonment of not more than 30 days for the first temporary revocation, 90 days for the second temporary revocation or 180 days for the third temporary revocation; or (2) fully revoking the probation, suspension of sentence or parole supervision and imposing imprisonment for the remainder of the sentence for a fourth or subsequent revocation. (NRS 176A.630, 213.1519) **Sections 5 and 8 of this bill ~~also authorize a court or the Board, as applicable, to revoke the probation, suspension of sentence or parole supervision at the request of a probationer or parolee. Sections 5 and 8 additionally require that before a court or the Board, as applicable, may take such actions, the Division must determine that the graduated sanctions adopted by the Division for technical violations of the conditions of probation or parole have been exhausted. Sections 5 and 8 further require that: (1) a probationer who is arrested and detained, or a parolee whose parole is revoked, for committing a technical violation of the conditions of probation or parole, as applicable, receives credit for any time served while the probationer or parolee is waiting for a hearing to determine if a technical violation has occurred, which must be applied to any term of imprisonment imposed for the technical violation; and (2) any time served by the probationer or parolee while waiting for such a hearing or in accordance with any term of imprisonment imposed for the technical violation must be applied toward the original sentence of the probationer or parolee.~~**

Section 8 additionally: (1) ~~increase~~ **increases** the terms of imprisonment for a temporary revocation of ~~probation or suspension of sentence or~~ parole supervision, ~~respectively,~~ from 30 days to 90 days for the first temporary revocation and from 90 days to 180 days for the second temporary revocation; and (2) ~~authorize~~ **authorizes** a full revocation of ~~probation or suspension of sentence or~~ parole supervision, ~~respectively,~~ for a third or subsequent revocation.

Section 8.7 of this bill requires the Department to: (1) collect and analyze certain data relating to the length of the term of imprisonment served and recidivism rates for persons whose probation, suspension or sentence or parole supervision is revoked due to a technical violation of the conditions of probation or parole; and (2) submit a report regarding

such data to the Director of the Legislative Counsel Bureau on or before January 1, 2025.

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

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

Any information collected or stored by the Department for the purpose of analyzing and understanding the criminal justice system, including, without limitation, information from a database, interview or other source, is confidential and not a public record within the meaning of NRS 239.010.

Sec. 1.3. NRS 176.01313 is hereby amended to read as follows:

176.01313 As used in NRS 176.0131 to 176.014, inclusive, ~~176.01315, 176.01317~~ and **section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS **176.01315, 176.01317 and** 176.0132 have the meanings ascribed to them in those sections.

~~[Section 1.]~~ **Sec. 1.7.** NRS 176.01323 is hereby amended to read as follows:

176.01323 1. The Department of Sentencing Policy is hereby created.

2. The Executive Director of the Department must be appointed by the Governor from a list of three *qualified* persons recommended by the Sentencing Commission.

3. The Executive Director:

(a) Is in the unclassified service of this State;

(b) Serves at the pleasure of the Sentencing Commission, except that the Executive Director may only be removed upon a finding by the Sentencing Commission that his or her performance is unsatisfactory; ***and***

(c) ~~[Must be an attorney licensed to practice law in this State; and~~

~~—(d)]~~ Shall devote his or her entire time and attention to the duties of his or her office and shall not engage in any other gainful employment or occupation.

4. The Executive Director may, within the limits of money available for this purpose, employ or enter into a contract for the services of such employees or consultants as is necessary to carry out the provisions of NRS 176.0131 to 176.014, inclusive ~~176.01315, 176.01317~~, **and section 1 of this act**.

Sec. 2. NRS 176.0133 is hereby amended to read as follows:

176.0133 1. The Nevada Sentencing Commission is hereby created within the Department. The Sentencing Commission consists of:

(a) One member appointed by the Governor;

(b) One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;

(c) Two members who are judges appointed by the Chief Justice of the Supreme Court of Nevada;

(d) One member who is a representative of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Nevada;

- (e) The Director of the Department of Corrections;
- (f) One member who is a representative of the Office of the Attorney General, appointed by the Attorney General;
- (g) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;
- (h) One member who is a representative of the Office of the Clark County Public Defender, appointed by the head of the Office of the Clark County Public Defender;
- (i) One member who is a representative of the Office of the Washoe County Public Defender, appointed by the head of the Office of the Washoe County Public Defender;
- (j) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;
- (k) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;
- (l) One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;
- (m) One member who is ~~to~~ :
 - (1) ***The Chief Parole and Probation Officer; or***
 - (2) ***A representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the ~~Governor;~~ Chief Parole and Probation Officer;***
- (n) One member who is a representative of the Nevada Sheriffs' and Chiefs' Association, appointed by the Nevada Sheriffs' and Chiefs' Association;
- (o) One member who is a representative of the Las Vegas Metropolitan Police Department, appointed by the Sheriff of Clark County;
- (p) One member who is a representative of the Division of Public and Behavioral Health of the Department of Health and Human Services;
- (q) One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;
- (r) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate;
- (s) Two members who are members of the Assembly, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly;
- (t) ***One member who is:***
 - (1) The Director of the Department of Employment, Training and Rehabilitation; ***or***
 - (2) ***A representative of the Department of Employment, Training and Rehabilitation, appointed by the Director of the Department of Employment, Training and Rehabilitation;*** and

(u) One member who is a representative of an organization that works with offenders upon release from incarceration to assist in reentry into the community appointed by the Chair of the Legislative Commission.

2. The Executive Director shall serve as the Executive Secretary of the Sentencing Commission.

3. If any organization listed in subsection 1 ceases to exist, the appointment required pursuant to that subsection must be made by the association's successor in interest, or, if there is no successor in interest, by the Governor.

4. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Sentencing Commission must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

5. The Legislators who are members of the Sentencing Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Sentencing Commission.

6. At the first regular meeting of each odd-numbered year, the members of the Sentencing Commission shall elect a Chair by majority vote who shall serve until the next Chair is elected.

7. The Sentencing Commission shall:

(a) Hold its first meeting on or before September 1 of each odd-numbered year; and

(b) Meet at least once every 3 months and may meet at such further times as deemed necessary by the Chair.

8. A member of the Sentencing Commission may designate a nonvoting alternate to attend a meeting in his or her place.

9. A majority of the members of the Sentencing Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Sentencing Commission. A nonvoting alternate designated by a member pursuant to subsection 8 who attends a meeting of the Sentencing Commission for which the alternate is designated shall be deemed to be a member of the Sentencing Commission for the purpose of determining whether a quorum exists.

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

Sec. 2.3. NRS 176.01343 is hereby amended to read as follows:

176.01343 1. The Sentencing Commission shall:

(a) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, including, without limitation, the following data from the Department of Corrections:

(1) With respect to prison admissions:

(I) The total number of persons admitted to prison by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, housing status and, if measured upon intake, risk score;

(II) The average minimum and maximum sentence term by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score; and

(III) The number of persons who received a clinical assessment identifying a mental health or substance use disorder upon intake.

(2) With respect to parole and release from prison:

(I) The average length of stay in prison for each type of release by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status, housing status and, if measured upon intake, risk score;

(II) The total number of persons released from prison each year by type of release, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status, housing status and, if measured upon intake, risk score;

(III) The recidivism rate of persons released from prison by type of release; and

(IV) The total number of persons released from prison each year who return to prison within 36 months by type of admission, type of release, type of return to prison, including, without limitation, whether such a subsequent prison admission was the result of a new felony conviction or a revocation of parole due to a technical violation, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status, housing status and, if measured upon intake, risk score.

(3) With respect to the number of persons in prison:

(I) The total number of persons held in prison on December 31 of each year, not including those persons released from a term of prison who reside in a parole housing unit, by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons held in prison on December 31 of each year who have been granted parole by the State Board of Parole Commissioners but remain in custody, and the reasons therefor;

(III) The total number of persons held in prison on December 31 of each year who are serving a sentence of life with or without the possibility of parole or who have been sentenced to death; and

(IV) The total number of persons as of December 31 of each year who have started a treatment program while in prison, have completed a treatment program while in prison and are awaiting a treatment program while in prison, by type of treatment program and type of offense.

(b) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, with respect to the following data, which the Division shall collect and report to the Sentencing Commission:

(1) With respect to the number of persons on probation or parole:

(I) The total number of supervision intakes by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The average term of probation imposed for persons on probation by type of offense;

(III) The average time served by persons on probation or parole by type of discharge, felony category and type of offense;

(IV) The average time credited to a person's term of probation or parole as a result of successful compliance with supervision;

(V) The total number of supervision discharges by type of discharge, including, without limitation, honorable discharges and dishonorable discharges, and cases resulting in a return to prison;

(VI) The recidivism rate of persons discharged from supervision by type of discharge, according to the Division's internal definition of recidivism;

(VII) The number of persons identified as having a mental health issue or a substance use disorder; and

(VIII) The total number of persons on probation or parole who are located within this State on December 31 of each year, not including those persons who are under the custody of the Department of Corrections.

(2) With respect to persons on probation or parole who violate a condition of supervision or commit a new offense:

(I) The total number of revocations and the reasons therefor, including, without limitation, whether the revocation was the result of a mental health issue or substance use disorder;

(II) The average amount of time credited to a person's suspended sentence or the remainder of the person's sentence from time spent on supervision;

(III) The total number of persons receiving administrative or jail sanctions, by type of offense and felony category; and

(IV) The median number of administrative sanctions issued by the Division to persons on supervision, by type of offense and felony category.

(c) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, with respect to savings and reinvestment, including, without limitation:

(1) The total amount of annual savings resulting from the enactment of any legislation relating to the criminal justice system;

(2) The total annual costs avoided by this State because of the enactment of chapter 633, Statutes of Nevada 2019, as calculated pursuant to NRS 176.01347; and

(3) The entities that received reinvestment funds, the total amount directed to each such entity and a description of how the funds were used.

(d) Track and assess trends observed after the enactment of chapter 633, Statutes of Nevada 2019, including, without limitation, the following data, which the Central Repository for Nevada Records of Criminal History shall collect and report to the Sentencing Commission as reported to the Federal Bureau of Investigation:

(1) The uniform crime rates for this State and each county in this State by index crimes and type of crime; and

(2) The percentage changes in uniform crime rates for this State and each county in this State over time by index crimes and type of crime.

(e) Identify gaps in this State's data tracking capabilities related to the criminal justice system and make recommendations for filling any such gaps.

(f) Employ and retain other professional staff as necessary to coordinate performance and outcome measurement and develop the report required pursuant to this section.

2. As used in this section:

(a) "Technical violation" has the meaning ascribed to it in NRS 176A.510.

(b) "Type of admission" means the manner in which a person entered into the custody of the Department of Corrections, according to the internal definitions used by the Department of Corrections.

(c) "Type of offense" means an offense categorized by the Department of Corrections as a violent offense, sex offense, drug offense, property offense, DUI offense or other offense, consistent with the internal data systems used by the Department of Corrections.

Sec. 2.7. NRS 176.014 is hereby amended to read as follows:

176.014 1. The Nevada Local Justice Reinvestment Coordinating Council is hereby created. The Council consists of:

(a) One member from each county in this State whose population is less than 100,000; and

(b) Two members from each county in this State whose population is 100,000 or more.

2. Each member of the Council must be appointed by the governing body of the applicable county and must meet any qualifications adopted by the Sentencing Commission pursuant to subsection ~~777~~ 8. The Chair of the Sentencing Commission shall appoint the Chair of the Council from among the members of the Council.

3. The Council shall:

(a) Advise the Sentencing Commission on matters related to any legislation, regulations, rules, budgetary changes and all other actions needed to implement the provisions of chapter 633, Statutes of Nevada 2019, as they relate to local governments;

(b) Identify county-level programming and treatment needs for persons involved in the criminal justice system for the purpose of reducing recidivism;

(c) Make recommendations to the Sentencing Commission regarding grants to local governments and nonprofit organizations from the State General Fund;

(d) Oversee the implementation of local grants;

(e) Create performance measures to assess the effectiveness of the grants; and

(f) Identify opportunities for collaboration with the Department of Health and Human Services at the state and county level for treatment services and funding.

4. Each member of the Council serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Council must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

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

6. **The Council may accept any gift, donation, bequest, grant or other source of money for the purpose of carrying out its duties pursuant to this section.**

7. To the extent of legislative appropriation, the Sentencing Commission shall provide the Council with such staff as is necessary to carry out the duties of the Council pursuant to this section.

~~7.7~~ 8. The Sentencing Commission may adopt any qualifications that a person must meet before being appointed as a member of the Council.

Sec. 3. NRS 176A.435 is hereby amended to read as follows:

176A.435 1. Except as otherwise provided in subsection 3, the Division shall administer a risk and needs assessment to each probationer under the Division's supervision. The results of the risk and needs assessment must be used to set a level of supervision for each probationer and to develop individualized case plans pursuant to subsection 4. The risk and needs assessment must be administered and scored by a person trained in the administration of the tool.

2. Except as otherwise provided in subsection 3, on a schedule determined by the ~~[Nevada Risk Assessment System, or its successor]~~ **appropriate risk and needs** assessment tool, or more often if necessary, the Division shall administer a subsequent risk and needs assessment to each probationer. The results of the risk and needs assessment conducted in accordance with this section must be used to determine whether a change in the level of supervision is necessary. The Division shall document the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the probationer of the change.

3. The provisions of subsections 1 and 2 are not applicable if:

(a) The level of supervision for the probationer is set by the court or by law; or

(b) The probationer is ordered to participate in a program of probation secured by a security bond pursuant to NRS 176A.300 to 176A.370, inclusive.

4. The Division shall develop an individualized case plan for each probationer. The case plan must include a plan for addressing the criminogenic risk factors identified on the risk and needs assessment, if applicable, and the list of responsivity factors that will need to be considered and addressed for each probationer.

5. Upon a finding that a term or condition of probation ordered pursuant to subsection 1 of NRS 176A.400 or the level of supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 2:

(a) The supervising officer shall notify the court of the finding; and

(b) The court may modify the terms and conditions of probation pursuant to subsection 1 of NRS 176A.450.

6. The risk and needs assessment required under this section must undergo periodic validation studies in accordance with the timeline established by the developer of the assessment. The Division shall establish quality assurance procedures to ensure proper and consistent scoring of the risk and needs assessment.

7. As used in this section, “risk and needs assessment” means a validated, standardized actuarial tool that identifies risk factors that increase the likelihood of a person reoffending and factors that, when properly addressed, can reduce the likelihood of a person reoffending.

Sec. 4. NRS 176A.510 is hereby amended to read as follows:

176A.510 1. The Division shall adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of probation. The system must:

(a) Set forth a menu of presumptive sanctions for the most common violations, including, without limitation, failure to report, willful failure to pay fines and fees, failure to participate in a required program or service, failure to complete community service and failure to refrain from the use of alcohol or controlled substances.

(b) Take into account factors such as responsivity factors impacting a person’s ability to successfully complete any conditions of supervision, the severity of the current violation, the person’s previous criminal record, the number and severity of any previous violations and the extent to which graduated sanctions were imposed for previous violations.

(c) Include guidance on the use of confinement in a jail or detention facility and electronic monitoring pursuant to subsection 3.

2. The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.

3. *As part of the system of graduated sanctions, the Division may, in response to a technical violation of the conditions of probation:*

(a) *Impose confinement in a jail or detention facility for a period of not more than 10 days. The total number of days of confinement imposed pursuant to this paragraph must not, in the aggregate, exceed 30 days.*

(b) *Place the person under a system of active electronic monitoring for a period of not more than 60 days using an electronic device approved by the Division. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the person, including, without limitation, the transmission of still visual images which do not concern the activities of the person, and producing, upon request, reports or records of the person's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:*

(1) *Oral or wire communications or any auditory sound; or*

(2) *Information concerning the activities of the person,*

↪ must not be used.

4. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

~~{4-}~~ 5. A parole and probation officer intending to impose a graduated sanction shall provide the supervised person with notice of the intended sanction. The notice must inform the person of any alleged violation and the date thereof and the graduated sanction to be imposed.

~~{5-}~~ 6. The failure of a supervised person to comply with a sanction may constitute a technical violation of the conditions of probation.

~~{6-}~~ 7. The Division may not seek revocation of probation for a technical violation of the conditions of probation until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, the Division shall submit a report to the court or Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the supervised person's behavior while in the community, including, without limitation, any graduated sanctions imposed before recommending revocation.

~~{7-}~~ 8. As used in this section:

(a) "Absconding" ~~has the meaning ascribed to it in NRS 176A.630.~~ **means that a person is actively avoiding supervision by making his or her whereabouts unknown to the Division for a continuous period of 60 days or more.**

(b) "Responsivity factors" has the meaning ascribed to it in NRS 213.107.

(c) "Technical violation" means any alleged violation of the conditions of probation that does not constitute absconding and is not ~~{the}~~ :

(1) **The** commission of a:

~~{(1)}~~ (I) New felony or gross misdemeanor;

~~{(2)}~~ (II) Battery which constitutes domestic violence pursuant to NRS 200.485;

~~[(3)]~~ (III) Violation of NRS 484C.110 or 484C.120;

~~[(4)]~~ (IV) Crime of violence *as defined in NRS 200.408* that is punishable as a misdemeanor;

~~[(5)]~~ (V) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;

~~[(6)]~~ (VI) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; ~~for~~

~~—[(7)]~~ (VII) Violation of a stay away order involving a natural person who is the victim of the crime for which the supervised person is being supervised ~~[-]~~; or

(VIII) Violation of a condition required pursuant to paragraph (i) or (l) of subsection 1 of NRS 176A.410 ~~[-, other than a violation of paragraph (a), (b), (d), (f), (h) or (n) of subsection 1 of that section,] or [NRS] 176A.413;~~
or

(2) *Termination from a program which provides residential treatment, as ordered by a court, as a condition of supervision.*

↪ The term does not include termination from a specialty court program.

Sec. 5. NRS 176A.630 is hereby amended to read as follows:

176A.630 1. If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it and consider the system of graduated sanctions adopted pursuant to NRS 176A.510, if applicable. Upon determining that the probationer has violated a condition of probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning the probationer to the court for violation of the probation. If the court finds that the probationer committed a violation of a condition of probation ~~[by committing a new felony or gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485, violation of NRS 484C.110 or 484C.120, crime of violence that is punishable as a misdemeanor, harassment pursuant to NRS 200.571, stalking or aggravated stalking pursuant to NRS 200.575, violation of a stay away order involving a natural person who is the victim of the crime for which the probationer is being supervised, violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or~~

~~extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 or by absconding.]~~ ***that is not a technical violation,*** the court may:

- (a) Continue or revoke the probation or suspension of sentence;
- (b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;
- (c) Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780;
- (d) Cause the sentence imposed to be executed; or
- (e) Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment prescribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, the Chief Parole and Probation Officer shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided a current address to the Division. The notice must inform the victim that he or she has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this paragraph. The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this paragraph is confidential.

2. If the court finds that the probationer committed one or more technical violations of the conditions of probation ~~and~~ ***and the Division has determined that the graduated sanctions adopted pursuant to NRS 176A.510 have been exhausted,*** the court may:

- (a) Continue the probation or suspension of sentence;
- (b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;
- (c) Temporarily revoke the probation or suspension of sentence and impose a term of imprisonment of not more than:
 - (1) Thirty days for the first temporary revocation;
 - (2) Ninety days for the ~~first~~ second temporary revocation; or
 - (3) ~~(2)~~ One hundred and eighty days for the ~~second~~ third temporary revocation; ~~or~~

(d) Fully revoke the probation or suspension of sentence and impose imprisonment for the remainder of the sentence for a fourth ~~third~~ or subsequent revocation ~~1~~; or

(e) Revoke the probation or suspension of sentence at the request of the probationer. If the probation or suspension of sentence is revoked pursuant to this paragraph, the probationer must serve such part of the unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence as may be determined by the court.

3. Notwithstanding any other provision of law, a probationer who is arrested and detained for committing a technical violation of the conditions of probation must be brought before the court not later than 15 calendar days after the date of arrest and detention. If the person is not brought before the court within 15 calendar days, the probationer must be released from detention and returned to probation status. Following a probationer's release from detention, the court may subsequently hold a hearing to determine if a technical violation has occurred. If the court finds that such a technical violation occurred, the court may:

(a) Continue probation and modify the terms and conditions of probation; or

(b) Fully or temporarily revoke probation in accordance with the provisions of subsection 2.

4. A probationer who is arrested and detained for committing a technical violation of the conditions of probation must receive credit for any time served while the probationer is waiting for a hearing to determine if a technical violation has occurred. The court must apply such credit to any term of imprisonment imposed pursuant to subsection 2.

5. Any time served by a probationer while waiting for a hearing, as set forth in subsection 4, and any time served in accordance with any term of imprisonment imposed pursuant to subsection 2 must be applied toward the original sentence of the probationer.

6. The commission of one of the following acts by a probationer must not, by itself, be used as the only basis for the revocation of probation:

- (a) Consuming any alcoholic beverage.
- (b) Testing positive on a drug or alcohol test.
- (c) Failing to abide by the requirements of a mental health or substance use treatment program.
- (d) Failing to seek and maintain employment.
- (e) Failing to pay any required fines or fees.
- (f) Failing to report any changes in residence.

~~5.1~~ 7. As used in this section ~~1~~
~~(a) "Absconding" means that a person is actively avoiding supervision by making his or her whereabouts unknown to the Division for a continuous period of 60 days or more.~~

~~(b) “Technical], “technical violation” [means any alleged violation of the conditions of probation that does not constitute absconding and is not the commission of a:~~

~~— (1) New felony or gross misdemeanor;~~

~~— (2) Battery which constitutes domestic violence pursuant to NRS 200.485;~~

~~— (3) Violation of NRS 484C.110 or 484C.120;~~

~~— (4) Crime of violence that is punishable as a misdemeanor;~~

~~— (5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;~~

~~— (6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or~~

~~— (7) Violation of a stay-away order involving a natural person who is the victim of the crime for which the probationer is being supervised.~~

~~➔ The term does not include termination from a specialty court program.] has the meaning ascribed to it in NRS 176A.510.~~

Sec. 6. NRS 213.1078 is hereby amended to read as follows:

213.1078 1. Except as otherwise provided in subsection 3, the Division shall administer a risk and needs assessment to each parolee under the Division’s supervision. The results of the risk and needs assessment must be used to set a level of supervision for each parolee and to develop individualized case plans pursuant to subsection 4. The risk and needs assessment must be administered and scored by a person trained in the administration of the tool.

2. Except as otherwise provided in subsection 3, on a schedule determined by the ~~[Nevada Risk Assessment System, or its successor]~~ **appropriate risk and needs** assessment tool, or more often if necessary, the Division shall administer a subsequent risk and needs assessment to each parolee. The results of the risk and needs assessment conducted in accordance with this subsection must be used to determine whether a change in the level of supervision is necessary. The Division shall document the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the parolee of the change.

3. The provisions of subsections 1 and 2 are not applicable if the level of supervision for the parolee is set by ~~[the Board or by]~~ law.

4. The Division shall develop an individualized case plan for each parolee. The case plan must include a plan for addressing the criminogenic risk factors identified on the risk and needs assessment, if applicable, and the list of responsivity factors that will need to be considered and addressed for each parolee.

5. ~~Upon a finding that a condition of parole or the level of parole supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 2, the~~

~~(a) The supervising officer shall submit a request to notify the Board to of the findings and~~

~~(b) The Board may modify the condition or level of supervision set by the Board. The Division shall provide written notification to the parolee of any modification~~

~~6.~~ The risk and needs assessment required under this section must undergo periodic validation studies in accordance with the timeline established by the developer of the assessment. The Division shall establish quality assurance procedures to ensure proper and consistent scoring of the risk and needs assessment.

Sec. 7. NRS 213.15101 is hereby amended to read as follows:

213.15101 1. The Division shall adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of parole. The system must:

(a) Set forth a menu of presumptive sanctions for the most common violations, including, without limitation, failure to report, willful failure to pay fines and fees, failure to participate in a required program or service, failure to complete community service and failure to refrain from the use of alcohol or controlled substances.

(b) Take into account factors such as responsivity factors impacting a person's ability to successfully complete any conditions of supervision, the severity of the current violation, the person's previous criminal record, the number and severity of any previous violations and the extent to which graduated sanctions were imposed for previous violations.

(c) Include guidance on the use of confinement in a jail or detention facility and electronic monitoring pursuant to subsection 3.

2. The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.

3. *As part of the system of graduated sanctions, the Division may, in response to a technical violation of the conditions of parole:*

(a) Impose confinement in a jail or detention facility for a period of not more than 10 days. The total number of days of confinement imposed pursuant to this paragraph must not, in the aggregate, exceed 30 days.

(b) Place the person under a system of active electronic monitoring for a period of not more than 60 days using an electronic device approved by the Division. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the person, including, without limitation, the transmission of still visual images which do not concern the activities of the person, and producing, upon request, reports or records of the person's presence near or within a crime scene or prohibited

area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(1) Oral or wire communications or any auditory sound; or

(2) Information concerning the activities of the person,

↪ must not be used.

4. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

~~{4.}~~ 5. A parole and probation officer intending to impose a graduated sanction shall provide the supervised person with notice of the intended sanction. The notice must inform the person of any alleged violation and the date thereof and the graduated sanction to be imposed.

~~{5.}~~ 6. The failure of a supervised person to comply with a sanction may constitute a technical violation of the conditions of parole.

~~{6.}~~ 7. The Division may not seek revocation of parole for a technical violation of the conditions of parole until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, the Division shall submit a report to the Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the supervised person's behavior while in the community, including, without limitation, any graduated sanctions imposed before recommending revocation.

~~{7.}~~ 8. As used in this section:

(a) "Absconding" has the meaning ascribed to it in NRS ~~{176A.630.}~~ 176A.510.

(b) "Technical violation" means any alleged violation of the conditions of parole that does not constitute absconding and is not ~~{the}~~ :

(1) ~~The~~ commission of a:

~~{(1)}~~ (I) New felony or gross misdemeanor;

~~{(2)}~~ (II) Battery which constitutes domestic violence pursuant to NRS 200.485;

~~{(3)}~~ (III) Violation of NRS 484C.110 or 484C.120;

~~{(4)}~~ (IV) Crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor;

~~{(5)}~~ (V) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;

~~{(6)}~~ (VI) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; ~~for~~

~~—(7)— (VII)~~ Violation of a stay away order involving a natural person who is the victim of the crime for which the supervised person is being supervised ~~[-]; or~~

(VIII) Violation of a condition required pursuant to paragraph (h) or (k) of subsection 1 of NRS 213.1245, ~~[- other than a violation of paragraph (a), (c), (e), (g) or (m) of subsection 1 of that section, NRS]~~ 213.1255 or 213.1258; or

(2) Termination from a program indicated in a parole release plan approved by the Division.

➡ The term does not include termination from a specialty court program.

Sec. 8. NRS 213.1519 is hereby amended to read as follows:

213.1519 1. Except as otherwise provided in subsections 2 and 3, a parolee whose parole is revoked by decision of the Board for the commission of a ~~new felony or gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485, violation of NRS 484C.110 or 484C.120, crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor, harassment pursuant to NRS 200.571, stalking or aggravated stalking pursuant to NRS 200.575, violation of a stay away order involving a natural person who is the victim of the crime for which the parolee is being supervised, violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 or for absconding;]~~ *violation of a condition of parole that is not a technical violation:*

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS; and

(b) Must serve such part of the unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board with rehearing dates scheduled pursuant to NRS 213.142.

➡ The Board may restore any credits forfeited under this subsection.

2. A parolee released on parole pursuant to subsection 1 of NRS 213.1215 whose parole is revoked for having been convicted of a new felony:

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS;

(b) Must serve the entire unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence; and

(c) May not again be released on parole during his or her term of imprisonment.

3. A parolee released on parole pursuant to subsection 2 of NRS 213.1215 whose parole is revoked by decision of the Board for a violation of any rule or regulation governing his or her conduct:

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS;

(b) Must serve such part of the unexpired maximum term or maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board; and

(c) Must not be considered again for release on parole pursuant to subsection 2 of NRS 213.1215 but may be considered for release on parole pursuant to NRS 213.1099, with rehearing dates scheduled pursuant to NRS 213.142.

↪ The Board may restore any credits forfeited under this subsection.

4. If the Board finds that the parolee committed one or more technical violations of the conditions of parole ~~and the Division has determined that the graduated sanctions adopted pursuant to NRS 213.15101 have been exhausted,~~ the Board may:

(a) Continue parole supervision;

(b) Temporarily revoke parole supervision and impose a term of imprisonment of not more than:

(1) ~~Thirty days for the first temporary parole revocation;~~

~~—(2) Ninety days for the second first temporary parole revocation; or~~

~~—(3) (2) One hundred and eighty days for the third second temporary parole revocation; or~~

(c) Fully revoke parole supervision and impose the remainder of the sentence for a ~~fourth~~ **third** or subsequent revocation ~~and~~ **or**

(d) Revoke parole supervision at the request of the parolee. If parole supervision is revoked pursuant to this paragraph, the parolee must serve such part of the unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board with rehearing dates scheduled pursuant to NRS 213.142.

5. A parolee whose parole is revoked for committing a technical violation of the conditions of parole must receive credit for any time served while the parolee is waiting for a hearing to determine if a technical violation has occurred. The Board must apply such credit to any term of imprisonment imposed pursuant to subsection 4.

6. Any time served by a parolee while waiting for a hearing, as set forth in subsection 5, and any time served in accordance with any term of imprisonment imposed pursuant to subsection 4 must be applied toward the original sentence of the parolee.

7. As used in this section ~~is~~

~~(a) “Absconding” has the meaning ascribed to it in NRS 176A.630.~~

~~(b) “Technical,” “technical violation” means any alleged violation of the conditions of parole that does not constitute absconding and is not the commission of a:~~

- ~~— (1) New felony or gross misdemeanor;~~
 - ~~— (2) Battery which constitutes domestic violence pursuant to NRS 200.485;~~
 - ~~— (3) Violation of NRS 484C.110 or 484C.120;~~
 - ~~— (4) Crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor;~~
 - ~~— (5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;~~
 - ~~— (6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or~~
 - ~~— (7) Violation of a stay away order involving a natural person who is the victim of the crime for which the parolee is being supervised.~~
- ~~→ The term does not include termination from a specialty court program.} has the meaning ascribed to it in NRS 213.15101.~~

Sec. 8.3. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002,

293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470,

678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 1 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

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

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

- (1) Was not created or prepared in an electronic format; and
- (2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

- (1) Give access to proprietary software; or
- (2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

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

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

Sec. 8.7. The Department of Sentencing Policy shall:

1. Collect and analyze any relevant data, including, without limitation, jail data, to measure the:

(a) Length of the term of imprisonment served for each person whose probation, suspension of sentence or parole supervision is temporarily revoked due to a technical violation of the conditions of probation or parole, as applicable; and

(b) Recidivism rate for persons who serve a term of imprisonment because their probation, suspension of sentence or parole supervision is revoked due to a technical violation of the conditions of probation or parole, as applicable.

2. On or before January 1, 2025, submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature regarding the collection and analysis of data pursuant to subsection 1.

Sec. 8.8. 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. 1. The amendatory provisions of sections 4, 5, 7 and 8 of this act apply to a technical violation of the conditions of probation or parole, as applicable, that occurs on or after July 1, 2023.

2. As used in subsection 1, “technical violation” has the meaning ascribed to it in NRS 176A.510 or 213.15101, as applicable.

Sec. 10. This act becomes effective on July 1, 2023.

Assemblywoman Brittney Miller moved the adoption of the amendment.

Remarks by Assemblywoman Brittney Miller.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 60.

Bill read second time.

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

Amendment No. 248.

AN ACT relating to local improvements; revising the process for the governing body of a municipality to provide notice of the annual assessment roll for a neighborhood improvement project; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of any county, city or town to create an improvement district for the acquisition, improvement, equipment, operation and maintenance of certain projects, including a neighborhood improvement project, and to finance the cost of any such project through such methods as the issuance of certain bonds and the levy of assessments upon property in the improvement district. (NRS 271.265, 271.270, 271.325)

Existing law requires the governing body of a local government which has acquired or improved a neighborhood improvement project to annually: (1) prepare an estimate of expenditures for the next fiscal year and a proposed assessment roll for the district; (2) conduct a public hearing on the estimate of expenditures and proposed assessment roll; and (3) confirm and levy the assessments. (NRS 271.377) **Section 3** of this bill requires instead that a governing body for a neighborhood improvement project annually: (1) prepare an amendment to the assessment roll and an estimate of the expenditures for the next fiscal year; (2) hold a public meeting to consider the amendment; (3) mail or, upon written request and to the extent practicable, transmit by electronic mail a notice of the public meeting at least 21 days before the date of the meeting to the owner of each tract to be assessed; and (4) confirm the amendment to the assessment roll by resolution and mail notice of the assessments to the owner of each tract being assessed.

Sections 1 and 2 of this bill make conforming changes to clarify appropriate references to certain sections in the Nevada Revised Statutes.

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

Section 1. NRS 271.296 is hereby amended to read as follows:

271.296 1. The governing body may, by resolution, dissolve an improvement district that is created for the purposes of a neighborhood improvement project if property owners whose property is assessed for a combined total of more than 50 percent of the total amount of the assessments of all the property in the improvement district submit a written petition to the governing body that requests the dissolution of the district within the period prescribed in subsection 2.

2. The dissolution of an improvement district pursuant to this section may be requested within 30 days after:

(a) The first anniversary of the date the improvement district was created; and

(b) Each subsequent anniversary thereafter.

3. As soon as practicable after the receipt of the written petition of the property owners submitted pursuant to subsection 1, the governing body shall pass a resolution of intention to dissolve the improvement district. The governing body shall give notice of a hearing on the dissolution. The notice must be provided and the hearing must be held ~~[pursuant to the requirements]~~ **in the manner** set forth in NRS ~~[271.377]~~ **271.380 and 271.385**. If the

governing body determines that dissolution of the improvement district is appropriate, it shall dissolve the improvement district by resolution, effective not earlier than the 30th day after the hearing.

4. If there is indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the improvement district, the portion of the assessment necessary to pay the indebtedness remains effective and must be continued in the following years until the debt is paid.

Sec. 2. NRS 271.297 is hereby amended to read as follows:

271.297 An association with which a governing body contracts pursuant to NRS 271.332 may, at any time, request that the governing body modify a plan or plat with regard to the neighborhood improvement project. Upon the written request of the association, the governing body may modify the plan or plat by ordinance after **providing notice and** holding a hearing on the proposed modification ~~[pursuant to NRS 271.377.] in the manner set forth in NRS 271.380 and 271.385.~~ If the proposed modification of a plat expands the territory for assessment, a person who owns or resides within a tract which is located within the territory proposed to be added to the improvement district may file a protest pursuant to NRS 271.392 at any time before the governing body modifies the plat by ordinance. A petition is not required for a modification made pursuant to this section.

Sec. 3. NRS 271.377 is hereby amended to read as follows:

271.377 1. On or before June 30 of each year after the governing body acquires or improves a neighborhood improvement project, the governing body shall prepare or cause to be prepared an estimate of the expenditures required in the ensuing fiscal year and a proposed **amendment to the** assessment roll assessing an amount not greater than the estimated cost against the benefited property. The **amendment to the** assessment must be computed according to frontage or another uniform and quantifiable basis.

2. The governing body shall ~~[hold a public hearing upon the estimate of expenditures and the proposed assessment roll.]~~ **consider the amendment to the assessment roll at a public meeting of the governing body.** Notice must be given ~~[and the hearing conducted in the manner provided in NRS 271.380 and 271.385. The assessment may not exceed the amount stated in the proposed assessment roll unless a new hearing is held after notice is mailed and published in the manner provided in NRS 271.305 and 271.310.]~~ **by mail or, upon written request and to the extent practicable, by electronic mail to the owner of each tract to be assessed at least 21 days before the date of the meeting of the governing body. The notice must set forth the amount of the assessment roll for the ensuing fiscal year.**

3. After the ~~[public hearing.]~~ **meeting,** the governing body shall confirm the assessments, as specified in the ~~[proposed]~~ **amendment to the** assessment roll ~~[for as modified, and levy the assessment as provided in NRS 271.390.]~~ **by resolution and mail notice of the assessments to the owner of each tract being assessed. The notice must set forth the date on which the assessment is due and instructions for paying the assessment.**

4. An improvement district created for a neighborhood improvement project is not entitled to any distribution from the local government tax distribution account.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Torres moved the adoption of the amendment.

Remarks by Assemblywoman Torres.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 72.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 137.

SUMMARY—Creates the Advisory Committee on the Safety and Well-Being of ~~Teachers,~~ **Public School Staff.** (BDR 34-442)

AN ACT relating to education; creating the Advisory Committee on the Safety and Well-Being of ~~Teachers,~~ **Public School Staff;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various requirements governing educational personnel, including requirements governing the licensing, qualifications, employment, powers, duties, supervision and evaluation of such personnel. (Chapter 391 of NRS) **Section 3** of this bill creates the Advisory Committee on the Safety and Well-Being of ~~Teachers,~~ **Public School Staff,** and **section 2** of this bill defines the term "Advisory Committee" to refer to that Advisory Committee. **Section 3** prescribes the membership of the Advisory Committee and establishes procedures governing the operation of the Advisory Committee. **Section 4** of this bill requires the Advisory Committee to review, investigate and make recommendations concerning: (1) any issue relating to the safety and well-being of ~~teachers,~~ **public school staff,** including provisions of law or regulations that affect the safety and well-being of ~~teachers,~~ **public school staff;** and (2) the consistent implementation of discipline of pupils.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in sections 3 and 4 of this act, unless the context otherwise requires, "Advisory Committee" means the Advisory Committee on the Safety and Well-Being of ~~Teachers,~~ **Public School Staff** created by section 3 of this act.*

Sec. 3. 1. *The Advisory Committee on the Safety and Well-Being of ~~Teachers,~~ **Public School Staff** is hereby created within the Department.*

2. *The Advisory Committee consists of the following members:*

(a) *Five ~~members appointed by the Governor who are licensed teachers who are~~ pursuant to this chapter and employed by a school district in this State, ~~[appointed by the Governor,]~~ at least four of whom must teach in the classroom;*

(b) *~~[One member of the Senate,]~~ Three members appointed by the Majority Leader of the Senate ~~[,]~~, as follows:*

(1) One member of the Senate;

(2) One education support professional who is employed by a school district in this State and works primarily at a single public school; and

(3) One administrator of an elementary school in this State;

(c) *~~[One member of the Assembly,]~~ Three members appointed by the Speaker of the Assembly ~~[,]~~, as follows:*

(1) One member of the Assembly;

(2) One education support professional who is employed by a school district in this State, works primarily for the school district and is assigned to multiple public schools; and

(3) One administrator of a high school in this State; and

(d) *The following ex officio members:*

(1) The Superintendent of Public Instruction or his or her designee; and

(2) The Director of the Office for a Safe and Respectful Learning Environment appointed pursuant to NRS 388.1323.

3. *After the initial terms, each member appointed pursuant to paragraph (a), (b) or (c) of subsection 2 serves for a term of 3 years and continues in office until his or her successor is appointed. Members may be reappointed for additional terms of 3 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Advisory Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.*

4. *Any legislative member of the Advisory Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session of the Legislature convenes.*

5. *A majority of the members of the Advisory Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Advisory Committee.*

6. *At its first meeting and annually thereafter, the Advisory Committee shall elect a Chair from among its members who shall serve until the next Chair is elected.*

7. *The Advisory Committee shall meet at least once in the first calendar year after its creation and thereafter at the call of the Chair as frequently as is required to perform its duties.*

8. *The members of the Advisory Committee serve without compensation and are not entitled to the per diem and travel expenses provided for state officers and employees generally.*

9. *Any member of the Advisory Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that he or she may prepare for and attend meetings of the Advisory Committee and perform any work necessary to carry out the duties of the Advisory Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Advisory Committee to:*

(a) *Make up the time the member is absent from work to carry out his or her duties as a member of the Advisory Committee; or*

(b) *Take annual leave or compensatory time for the absence.*

10. *As used in this section, “education support professional” means a person that is employed by a school district in this State and not required, as a condition of his or her employment, to hold a license issued pursuant to this chapter. The term includes, without limitation, school secretaries, paraprofessionals, custodial staff, food service workers and bus drivers.*

Sec. 4. *The Advisory Committee shall review, investigate and make recommendations to the Legislature, any offices of this State and any political subdivisions of this State as may be appropriate concerning:*

1. *Any issue relating to the safety and well-being of ~~teachers;~~ public school staff, including, without limitation, provisions of law or regulations that affect the safety and well-being of ~~teachers;~~ public school staff; and*

2. *The consistent implementation of discipline of pupils.*

Sec. 5. 1. Notwithstanding any other provision of this act, as soon as is practicable after July 1, 2023:

(a) The Governor shall appoint to the Advisory Committee:

(1) Two of the members described in paragraph (a) of subsection 2 of section 3 of this act to terms that expire on July 1, 2024;

(2) One of the members described in paragraph (a) of subsection 2 of section 3 of this act to a term that expires on July 1, 2025; and

(3) Two of the members described in paragraph (a) of subsection 2 of section 3 of this act to terms that expire on July 1, 2026.

(b) The Majority Leader of the Senate shall appoint to the Advisory Committee the ~~member~~ members described in paragraph (b) of subsection 2 of section 3 of this act to ~~a term~~ terms that ~~expires~~ expire on July 1, 2025.

(c) The Speaker of the Assembly shall appoint to the Advisory Committee ~~the~~ :

(1) The member described in subparagraph (1) of paragraph (c) of subsection 2 of section 3 of this act to a term that expires on July 1, ~~2026~~ 2024; and

(2) The members described in subparagraphs (2) and (3) of paragraph (c) of subsection 2 of section 3 of this act to terms that expire on July 1, 2026.

2. As used in this section, “Advisory Committee” means the Advisory Committee on the Safety and Well-Being of ~~Teachers~~ **Public School Staff** created by section 3 of this act.

Sec. 6. This act becomes effective on July 1, 2023.

Assemblywoman Bilbray-Axelrod moved the adoption of the amendment.

Remarks by Assemblywoman Bilbray-Axelrod.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 177.

Bill read second time and ordered to third reading.

Assembly Bill No. 185.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 149.

AN ACT relating to education; requiring school districts, charter schools and university schools for profoundly gifted pupils to take certain measures to accommodate a pupil who plans to transfer to the school district or school or leave the school district or school because of the documented pending military transfer of a parent or guardian; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Interstate Compact on Educational Opportunity for Military Children requires member states, including Nevada, to take certain measures to facilitate the enrollment and continued education of pupils who are children of military families and who transfer into this State. (NRS 388F.010) Existing law also requires the superintendent of a school district or his or her designee to make reasonable efforts to accommodate a pupil who transfers to a public school in the district due to the military transfer of the parent or legal guardian of the pupil. (NRS 388F.070) This bill additionally requires the governing body of a charter school or university school for profoundly gifted pupils to make such reasonable efforts. This bill requires those reasonable efforts to include authorizing such a pupil to enroll in the school and participate in any application or lottery process necessary to be eligible for such enrollment: (1) at the same time as pupils who reside in the school district or near the charter school or university school, as applicable; and (2) in the same manner as pupils who reside in the school district or near the charter school or university school, as applicable, or remotely using electronic means, regardless of whether such means are generally authorized for other pupils. **This bill authorizes such a pupil to: (1) use the address of a military installation to which a parent or legal guardian of the pupil has a documented pending military transfer as**

the address of the pupil for all purposes relating to enrollment until the pupil notifies the public school of the actual address at which the pupil will reside in the appropriate attendance area; and (2) specify an additional address solely for the purpose of receiving correspondence.

This bill also requires the superintendent of a school district or the superintendent's designee or the governing body of a charter school or university school for profoundly gifted pupils to make reasonable efforts to accommodate a pupil who plans to leave the school during the school year because of the documented pending military transfer of the parent or legal guardian of the pupil. This bill requires those efforts to include: (1) authorizing and assisting the pupil to complete the requirements for the current school year through a program of distance education, if such a program is available; and (2) cooperating with any school or school district to which the pupil plans to transfer. **This bill requires a pupil who enrolls in a public school, charter school or university school for profoundly gifted pupils for all or part of a school year pursuant to the provisions of this bill to provide proof of residency before the beginning of the next school year if the pupil plans to enroll in the school for the next school year.**

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

Section 1. NRS 388F.070 is hereby amended to read as follows:

388F.070 1. The superintendent of a school district or the superintendent's designee *or the governing body of a charter school or a university school for profoundly gifted pupils* shall ~~[- in]~~ :

(a) *Authorize a pupil who plans to transfer to a public school in the school district or to a charter school or university school, as applicable, from a school inside or outside this State because of the documented pending military transfer of the parent or legal guardian of the pupil to enroll in the public school, charter school or university school and participate in any application or lottery process necessary to be eligible for such enrollment:*

(1) *At the same time as pupils who reside in the school district or near the charter school or university school, as applicable; and*

(2) *In the same manner as pupils in the school district or near the charter school or university school, as applicable, or remotely using electronic means, regardless of whether such means are generally authorized for other pupils.*

(b) **Deem the address of a military installation to which a parent or legal guardian of the pupil has a documented pending military transfer to be the address of the pupil for all purposes relating to enrollment for which an address is required until the pupil notifies the public school of the actual address at which the pupil will reside in the appropriate attendance area.**

(c) **Authorize the pupil and the parent or legal guardian of the pupil to specify an additional, current address solely for the purpose of receiving correspondence.**

(d) *In accordance with NRS 388F.010, make **other** reasonable efforts to accommodate a pupil who transfers to a public school in the school district **or to the charter school or university school, as applicable**, from a school inside or outside this State because of the military transfer of the parent or legal guardian of the pupil.*

2. If the superintendent of a school district or the superintendent's designee is not able to grant a standard high school diploma to a pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil, the superintendent or the superintendent's designee shall work cooperatively with the local education agency in the state in which the pupil was previously enrolled to determine if the pupil is eligible to receive a diploma from that local education agency and, if the pupil is eligible, to facilitate receiving a high school diploma from that local education agency.

3. *If a pupil at a public school in a school district, a charter school or a university school for profoundly gifted pupils plans to leave the school during the school year because of the documented pending military transfer of the parent or legal guardian of the pupil, the superintendent of the school district or the superintendent's designee or the governing body of the charter school or university school, as applicable, shall make reasonable efforts to accommodate the pupil, including, without limitation, by:*

(a) *Authorizing and assisting the pupil to complete the requirements for the current school year through a program of distance education, if such a program is available; and*

(b) *Cooperating with any school or school district to which the pupil plans to transfer.*

4. *A pupil who enrolls in a public school, charter school or university school for profoundly gifted pupils pursuant to subsection 1 for all or part of a school year and plans to enroll in the school for the next school year shall, before the beginning of the next school year, provide proof of residency in this State and, as applicable, in:*

(a) *The school district;*

(b) *The zone of attendance of the school established pursuant to NRS 388.040; or*

(c) *The geographic area served by the charter school or university school.*

5. *As used in this section, "program of distance education" means a program comprised of one or more courses of study for which instruction is delivered by means of video, computer, television or the Internet or other electronic means of communication, or any combination thereof, in such a manner that the person supervising or providing the instruction and the pupil receiving the instruction are separated geographically for a majority of the time during which instruction is delivered.*

Sec. 2. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 3. 1. This section becomes effective upon passage and approval.

2. Sections 1 and 2 of this act become effective:

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

(b) On January 1, 2024, for all other purposes.

Assemblywoman Bilbray-Axelrod moved the adoption of the amendment.

Remarks by Assemblywoman Bilbray-Axelrod.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 207.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 146.

AN ACT relating to education; authorizing the board of trustees of a school district and the governing body of a charter school to obtain insurance for liability arising out of the participation of a pupil in a work-based learning program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of trustees of a school district or the governing body of a charter school to offer a work-based learning program upon approval of the State Board of Education. (NRS 389.167) This bill authorizes the board of trustees of a school district or the governing body of a charter school to obtain liability insurance against liability arising out of the participation of a pupil in a work-based learning program. This bill also prohibits the board of trustees of a school district or the governing body of a charter school from directly or indirectly charging a pupil or the parent or legal guardian of a pupil for the cost of such insurance coverage. ~~[This bill provides that the board of trustees of a school district and the governing body of a charter school are not subject to civil liability for failing to obtain such insurance or failing to obtain a certain amount of insurance coverage.]~~

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district or the governing body of a charter school that has been approved by the State Board to offer a work-based learning program may purchase and maintain insurance against any liability arising out of the participation of a pupil in the work-based learning program. The coverage authorized by this section must be obtained from an insurer who is authorized to do business in this State.

2. A school district or charter school may not directly or indirectly charge a pupil or the parent or legal guardian of a pupil for the cost of obtaining insurance coverage pursuant to subsection 1.

~~[3. The board of trustees of a school district and the governing body of a charter school are immune from civil liability for actions based upon the failure of the board of trustees or governing body to obtain insurance coverage as authorized by this section or to obtain a particular amount of insurance coverage.]~~

Sec. 2. This act becomes effective on July 1, 2023.

Assemblywoman Bilbray-Axelrod moved the adoption of the amendment.

Remarks by Assemblywoman Bilbray-Axelrod.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 214.

Bill read second time.

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

Amendment No. 90.

CONTAINS UNFUNDED MANDATE (§ 2)

(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

AN ACT relating to regional transportation commissions; ~~[providing certain eligibility requirements for a person to submit a bid for a high capacity transit system utilizing a turnkey procurement process; providing]~~ **requiring a regional transportation commission in certain counties to establish an advisory committee; revising** certain requirements ~~[for the use of an electronic surveillance system;]~~ **relating to the security in operations of a regional transportation commission;** revising certain requirements relating to the establishment of an advisory committee by a regional transportation commission ~~[; revising certain requirements for a commission to use a turnkey procurement process for a high capacity transit system;]~~ **in certain counties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a board of county commissioners may by ordinance create a regional transportation commission if a streets and highways plan has been adopted as part of the master plan by the county or regional planning commission. (NRS 277A.170) Existing law authorizes a regional transportation commission to provide for and maintain such security in operations as is necessary for the protection of persons and property. (NRS 277A.260) **Section 2** of this bill authorizes a regional transportation commission to ~~[; (1) use an electronic surveillance system to provide and maintain such security in operations; and (2)]~~ establish a fine for a passenger who refuses to comply with a regional or statewide health and safety standard or mandate. **Section 2** further ~~[; (1)]~~ requires a regional transportation commission ~~[to adopt certain policies and procedures governing the~~

~~maintenance of records made or recorded by an electronic surveillance system; (2) provides that any record made or recorded by an electronic surveillance system is a public record; and (3) provides that the provisions of section 2 do not supersede the provisions of a collective bargaining agreement.] or any person who contracts with a regional transportation commission to operate a public transit system to: (1) maintain any audio or video recording that is used as evidence in certain disciplinary actions or contains an incident on a public transit system that results in an injury to an employee; and (2) upon the request of an employee organization that is the exclusive bargaining agent of the employees of a person who contracts with the regional transportation commission, to provide such audio or video recordings to the employee organization.~~

Existing law requires the regional transportation commission in a county whose population is 700,000 or more (currently only Clark County) to establish an advisory committee to provide certain information and advice to the commission relating to public mass transportation in the county. The advisory committee consists of: (1) two members of the general public from each city within the county who are appointed by the governing body of that city; and (2) six members of the general public appointed by the regional transportation commission. (NRS 277A.340) **Section 3 of this bill ~~is~~ instead requires the regional transportation commission to appoint members to the advisory committee. Section 3 further provides that the membership of the committee must include: (1) ~~revises the population requirement for a county to establish such an advisory committee to be 100,000 or more (currently Clark and Washoe Counties); and (2) requires the appointing authorities to coordinate to ensure that~~ at least two ~~of the~~ members ~~on the advisory committee~~ who are representatives of the employees who work on a public transit system in the county, are not in a supervisory position and are recommended by the principal officers of the employee organization that ~~represent~~ represents such employees ~~to~~**

~~Existing law: (1) authorizes a regional transportation commission in a county whose population is 700,000 or more (currently only Clark County) to utilize a turnkey procurement process to select a person to design, build, finance, operate and maintain, or any combination thereof, a high capacity transit system, including, without limitation, any minimum operable segment thereof; and (2) requires the regional transportation commission to evaluate whether turnkey procurement is the most cost effective method of constructing the project on schedule and in satisfaction of its transportation objectives. (NRS 277A.450); (2) at least one member of the general public; and (3) any other additional members appointed at the discretion of the regional transportation commission. Section 3 also authorizes a regional transportation commission to assign certain duties of the advisory committee to another committee established by the regional transportation commission, provided that the membership of the other~~

committee meets the membership requirements for an advisory committee.

Section 1.5 of this bill requires a regional transportation commission in a county whose population is 100,000 or more but less than 700,000 (currently only Washoe County) to establish an advisory committee to provide certain information and advice to the regional transportation commission relating to public mass transportation in the county. Section 1.5 provides that the advisory committee consist of: (1) one member of the general public from each city within the county who is appointed by the governing body of that city; and (2) three members of the general public appointed by the regional transportation commission. Section 1.5 also requires the appointing authorities to coordinate to ensure that at least two of the members on the advisory committee are representatives of the employees who work for the public transit system in the county, are not in a supervisory position and are recommended by the principal officers of the employee organization that represents such employees.

~~Section 6 of this bill requires the regional transportation commission to: (1) evaluate whether turnkey procurement is the most cost effective method of constructing, operating or maintaining the project on schedule and in satisfaction of its transportation objectives in comparison to using the employees of the regional transportation commission; (2) publish a report of its evaluation; and (3) transmit a copy of the report to the Department of Transportation.~~

~~If a regional transportation commission utilizes a turnkey procurement process for a high capacity transit system, section 1 of this bill sets forth certain eligibility requirements for a person who submits a bid on or is awarded a contract for the high capacity transit system. Section 1 also provides: (1) certain requirements for the termination of such a contract; and (2) that if such a contract is terminated, the person is not eligible to submit a bid on or be awarded a contract or subcontract with the regional transportation commission for a period of time to be determined by the regional transportation commission.~~

~~Sections 4, 5 and 7 of this bill make conforming changes to indicate the proper placement of section 1 in the Nevada Revised Statutes.]~~ revises a reference to federal law.

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

Section 1. ~~[Chapter 277A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. If a commission utilizes a turnkey procurement process for a high capacity transit project pursuant to subsection 1 of NRS 277A.450, any person who bids on or is awarded a contract for the high capacity transit project or any portion thereof, must agree and provide a statement, in writing, that he or she will:~~

~~— (a) Pay the applicable prevailing wage, as determined by the Labor Commissioner pursuant to NRS 338.030, for each worker on the project;~~

~~— (b) Provide each worker on the project with written notice of the appropriate prevailing wage rate and maintain a copy of each notice for inspection by the commission;~~

~~— (c) Maintain or participate in an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS for each trade or occupation in the workforce of the person for which there is such an apprenticeship program and abide by any requirements of such a program regarding the ratio of apprentices to journeymen;~~

~~— (d) Provide a health insurance plan to all employees or similar type of coverage that is comparable in value to the coverage generally provided in the applicable trade or occupation and within the applicable prevailing wage rate for each worker;~~

~~— (e) Maintain a policy of industrial insurance for all workers on the project employed by the contractor or subcontractor;~~

~~— (f) Not engage in employee misclassification, as defined in NRS 607.216;~~

~~— (g) Disclose any previous violation of a labor or employment law;~~

~~— (h) Disclose any previous occurrence of a default, lien, liquidated damages or finding of irresponsibility;~~

~~— (i) Provide documentation from a previous project demonstrating the quality of work, timeliness of performance and the history of the person in completing projects within the budget; and~~

~~— (j) Provide a certified financial statement to demonstrate that the person has adequate resources, credit, insurance and bonds to complete performance of the contract.~~

~~— 2. A commission that enters into a contract for which a person provided the written statement required pursuant to subsection 1 may terminate such a contract upon a motion by the commission or upon a request submitted to the commission by a member of the public to terminate the contract if:~~

~~— (a) The person substantially breaches the contract or fails to comply with the obligations set forth in subsection 1; and~~

~~— (b) The commission holds a public hearing within 30 days after the receipt of such a motion or request to terminate the contract.~~

~~— 3. A person whose contract is terminated pursuant to subsection 2 is not eligible to submit a bid on or be awarded a contract or subcontract with the commission for a period of time to be determined by the commission, which must be not less than 1 year and not more than 3 years.] (Deleted by amendment.)~~

Sec. 1.5. Chapter 277A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 100,000 or more but less than 700,000, the commission shall establish an advisory committee to provide information and advice to the commission concerning the construction,

installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county and any other related subject as requested by the commission. The membership of the advisory committee must consist of:

(a) One member of the general public from each city within the county who is appointed by the governing body of that city; and

(b) Three members of the general public appointed by the commission.

2. The appointing authorities shall coordinate to ensure that at least two of the members appointed pursuant to paragraphs (a) and (b) of subsection 1:

(a) Are representatives of the employees who work for the public transit system in the county;

(b) Are not in a supervisory position; and

(c) Are recommended by the principal officers of the employee organization that represents such employees.

3. Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.

4. A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.

5. The advisory committee shall meet at least four times annually.

6. At its first meeting and annually thereafter, the advisory committee shall elect a chair and vice chair from among its members.

7. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

Sec. 2. NRS 277A.260 is hereby amended to read as follows:

277A.260 1. A commission may:

~~{1-} (a) Provide for and maintain such security in operations [including, without limitation, an electronic surveillance system,] as is necessary for the protection of persons and property under its jurisdiction and control.~~

~~{2-} (b) Employ professional, technical, clerical and other personnel necessary to carry out the provisions of this chapter.~~

~~{3-} (c) Establish ~~[a fine]~~ fines for a passenger who refuses to ~~[pay]~~ :~~

~~(1) Pay or otherwise fails to pay the proper fare to ride on the public transit system established and operated by the commission ~~[]~~ ; or~~

~~(2) Comply with a regional or statewide health and safety standard or mandate.~~

↪ If the commission establishes such ~~[a fine,]~~ fines, the commission may establish procedures that provide for the issuance and collection of the ~~[fine.]~~ fines.

~~2. ~~If a commission provides and maintains an electronic surveillance system on a public transit system, or any portion thereof, pursuant to paragraph (a) of subsection 1, the commission shall establish policies and procedures governing the use of the electronic surveillance system which must, without limitation,~~~~

~~(a) Require the commission to maintain, for at least 90 days, any record made or recorded by an electronic surveillance system;~~

~~(b) Require, upon the request of a labor organization that is the exclusive bargaining agent of the employees of the commission, the production of any record made or recorded within 72 hours after the request is made;~~

~~(c) Require any person who contracts with the commission to operate the public transit system and who uses the electronic surveillance system while performing the duties of such a contract to operate the electronic surveillance system and maintain the records from the electronic surveillance system in accordance with this subsection; and~~

~~(d) Establish disciplinary rules for any employee or contractor who:~~

~~(1) Intentionally manipulates any record made or recorded by the electronic surveillance system; or~~

~~(2) Prematurely erases or destroys a record made or recorded by the electronic surveillance system.~~

~~3. Any record made or recorded by an electronic surveillance system pursuant to this section is a public record which may be requested only on a per incident basis.~~

~~4. This section does not supersede the provisions of a collective bargaining agreement or constitute a waiver of the obligations of an employer to notify and bargain with an exclusive representative of a bargaining unit over an electronic surveillance system or any policy or procedure established by the commission pursuant to this section.} The commission or any person who contracts with the commission to operate the public transit system shall:~~

(a) Maintain, in accordance with all applicable provisions of state and federal law, any audio or video recording that:

(1) Is used as evidence in a disciplinary action involving an employee of any person who contracts with the commission to operate the public transit system; or

(2) Contains an incident on the public transit system that results in an injury to an employee of a person who contracts with the commission to operate the public transit system.

(b) Upon the request of an employee organization that is the exclusive bargaining agent of the employees of a person who contracts with the commission to operate the public transit system, provide the employee organization with any audio or video recording that:

(1) Is used as evidence in a disciplinary action involving an employee of any person who contracts with the commission to operate the public transit system; or

(2) Contains an incident on the public transit system that results in an injury to an employee of a person who contracts with the commission to operate the public transit system, provided that the commission and the person who contracts with the commission to operate the public transit

system receive a written request by the employee organization for the audio or video recording within 10 calendar days of the incident.

Sec. 3. NRS 277A.340 is hereby amended to read as follows:

277A.340 1. ~~It is~~ Except as otherwise provided in subsection 8, in a county whose population is 700,000 ~~100,000~~ or more, the commission shall establish an advisory committee to ~~provide~~ :

(a) Provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county ~~;~~ ; and

(b) Perform, at the discretion of the commission, any other duties.

2. The commission shall appoint members to the advisory committee.

The membership of the advisory committee must consist of:

(a) ~~Two~~ At least two members ~~of the general public or one employee representative appointed pursuant to subsection 2~~ from each city within the county who are appointed by the governing body of that city; and who:

(1) Are representatives of the employees who work on the public transit system in the county;

(2) Are not in a supervisory position; and

(3) Are recommended by the principal officers of the employee organization that represents such employees.

(b) ~~Six members~~ At least one member of the general public ~~or one employee representative appointed pursuant to subsection 2~~ appointed by the commission.

~~2. The appointing authorities shall coordinate to ensure that at least two of the members appointed pursuant to paragraphs (a) and (b) of subsection 1;~~

~~(a) Are representatives of the employees who work on a public transit system in the county;~~

~~(b) Are not in a supervisory position; and~~

~~(c) Are recommended by the principal officers of the employee organization that represents such employees.~~

(c) Any other additional members appointed at the discretion of the commission.

3. Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.

~~3.~~ 4. A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.

~~4.~~ 5. The advisory committee shall meet at least ~~six~~ four times annually.

~~5.~~ 6. At its first meeting and annually thereafter, the advisory committee shall elect a chair and vice chair from among its members.

~~6.~~ 7. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

8. If a commission has established other committees, the commission may assign the duty of an advisory committee to provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county to another committee, provided that the membership of the other committee meets the requirements of paragraphs (a) and (b) of subsection 2.

Sec. 4. ~~[NRS 277A.400 is hereby amended to read as follows:~~

~~277A.400 As used in NRS 277A.400 to 277A.490, inclusive, [“high capacity”] and section 1 of this act:~~

~~1. “High capacity transit” means a public transit system that may provide a higher level of passenger capacity by increasing, without limitation, the number of vehicles utilized by the system, the size of the vehicles, the frequency of vehicle rides, travel speed or any combination thereof, and that operates in conjunction with public transit stations. The term includes, without limitation, bus rapid transit, fixed guideway, light rail transit, commuter rail, streetcar and heavy rail.~~

~~2. “Turnkey procurement” means a competitive procurement process by which a person is selected by a commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a high capacity transit system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 277A.410 is hereby amended to read as follows:~~

~~277A.410 The provisions of NRS 277A.400 to 277A.490, inclusive, and section 1 of this act apply only to a commission in a county whose population is 700,000 or more.] (Deleted by amendment.)~~

Sec. 6. NRS 277A.450 is hereby amended to read as follows:

277A.450 1. Notwithstanding the provisions of chapter 332 of NRS or NRS 625.530, a commission may utilize a turnkey procurement process to select a person to design, build, finance, operate and maintain, or any combination thereof, a high-capacity transit system, including, without limitation, any minimum operable segment thereof. The commission shall determine ~~[, in a public meeting,]~~ whether to utilize turnkey procurement for a high-capacity transit project before the completion of the preliminary engineering phase of the project. In making that determination, the commission shall ~~[, in a public meeting,]~~ evaluate whether turnkey procurement is the most cost-effective method of constructing ~~[, operating or maintaining]~~ the project on schedule and in satisfaction of its transportation objectives ~~[, in comparison to the cost of using employees of the commission to construct, operate or maintain the project. The commission shall publish a report explaining its evaluation and transmit a copy of the report to the Department of Transportation.]~~

2. Notwithstanding the provisions of chapter 332 of NRS, a commission may utilize a competitive negotiation procurement process to procure rolling

stock for a high-capacity transit project and any other equipment that is related to the project. The award of a contract under such a process must be made to the person whose proposal is determined to be the most advantageous to the commission, based on price and other factors specified in the procurement documents.

3. If a commission develops a high-capacity transit project, the Department of Transportation is hereby designated to serve as the oversight agency to ensure compliance with the federal safety regulations for rail fixed guideway **public transportation** systems set forth in 49 C.F.R. Part ~~[659.]~~ **674**.

4. As used in this section :

(a) “Minimum ~~fr~~ **“minimum”** operable segment” means the shortest portion of a high-capacity transit system that is technically capable of providing viable public transportation between two end points.

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

~~Sec. 7. [NRS 277A.490 is hereby amended to read as follows:
277A.490 The proceeds of any tax imposed pursuant to NRS 277A.470 and 277A.480 must be remitted by the Department of Taxation to the commission for use in accordance with the provisions of NRS 277A.400 to 277A.490, inclusive [], and section 1 of this act.] (Deleted by amendment.)~~

Sec. 8. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Assemblywoman Torres moved the adoption of the amendment.

Remarks by Assemblywoman Torres.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 217.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 147.

AN ACT relating to education; revising provisions relating to the Liaison for Post-Secondary Education for Homeless Pupils within the Nevada System of Higher Education; ~~[authorizing the Board of Regents of the University of Nevada to require institutions within the System to prioritize registration for the enrollment of certain pupils in certain courses;]~~ revising provisions governing the waiver of fees by the Board of Regents for certain homeless or unaccompanied pupils; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to grant a waiver of registration and laboratory fees for **a pupil who is** homeless or unaccompanied. ~~[(pupil)]~~ (NRS 396.5448) **Section 4** of this bill ~~instead~~ requires the Board of Regents to waive such fees, as well as any other mandatory fees, for ~~[such pupils.]~~ **a pupil who, at any time before reaching the age of 25 years, was identified as homeless or unaccompanied.**

Existing law authorizes the Board of Regents to request documentation from a person requesting such a waiver of fees to verify that the person was a homeless or unaccompanied pupil. (NRS 396.5448) **Section 4 : (1) requires the Board of Regents to request such documentation; and (2)** limits the documentation which the Board of Regents is ~~authorized~~ **required** to request under certain circumstances. **Section 4** provides for the adjustment of the amount of the fee waiver based upon the amount of federal educational benefits the pupil receives. **Section 4** requires each institution within the Nevada System of Higher Education to designate one employee to act as a point of contact for questions about the fee waiver.

~~[Section 3 of this bill authorizes the Board of Regents to require an institution within the System to provide priority registration in courses that provide credit toward the award of a degree or certificate to a homeless or unaccompanied pupil or a person who was in the custody of an agency that provides child welfare services when he or she was 14 years of age or older.]~~

Existing law creates the position of the Liaison for Post-Secondary Education for Homeless Pupils within the System to assist homeless and unaccompanied pupils in pursuing post-secondary education. (NRS 396.5926, 396.594) **Section 2** of this bill requires a university, state college or community college within the System to take certain steps to disseminate the name and contact information of the Liaison. **Section 5** of this bill makes a conforming change to indicate the proper placement of **section 2** in the Nevada Revised Statutes. **Section 6** of this bill revises the definition of “homeless pupil” for the purposes of the provisions of law relating to the Liaison. **Section 7** of this bill requires that a person appointed to be the Liaison be familiar with certain federal laws as well as the federal application for student aid and other federal programs, grants and assistance which benefit homeless and unaccompanied pupils. **Section 8** of this bill revises the duties of the Liaison.

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *A university, state college or community college within the System shall:*

1. Provide the name and contact information of the Liaison to each student who is granted a waiver pursuant to NRS 396.5448.

2. Publish the name and contact information of the Liaison on the Internet website of the institution.

Sec. 3. ~~1. The Board of Regents may require an institution within the System to grant priority for registration for enrollment in courses that provide credit toward the award of a degree or certificate to a student who is identified as:~~

~~(a) A homeless or unaccompanied pupil; or~~

~~(b) A person who was in the custody of an agency which provides child welfare services in this State when he or she was 14 years of age or older.~~

~~2. As used in this section:~~

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

~~(b) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).~~

~~(c) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6). (Deleted by amendment.)~~

Sec. 4. NRS 396.5448 is hereby amended to read as follows:

396.5448 1. The Board of Regents ~~may~~ **shall** grant a waiver of *the payment of* registration fees , ~~and~~ laboratory fees ~~for~~ **and any other mandatory fees assessed each semester against** a person who ~~is~~ :

(a) ~~Has~~ **At any time before reaching the age of 25 years, was** identified as a homeless or unaccompanied pupil ~~[. For the purpose of assessing fees and charges against a person to whom such a waiver is granted, including, without limitation, tuition charges pursuant to NRS 396.540, the person shall be deemed to be a bona fide resident of this State.~~

~~2. A person is eligible for a waiver pursuant to subsection 1 if the person maintains; and~~

(b) ***Has maintained*** at least a 2.0 grade point average, on a 4.0 grading scale, each semester or the equivalent of a 2.0 grade point average if a different scale is used.

2. ***For the purpose of assessing fees and charges against a person to whom a waiver is granted pursuant to subsection 1, including, without limitation, tuition charges assessed pursuant to NRS 396.540, the person shall be deemed to be a bona fide resident of this State.***

3. A person may use a waiver granted pursuant to subsection 1 for 10 years after the person attains the age of 18 years or, if the person enrolls in the System before the age of 18 years, for 10 years after the date of such enrollment.

4. The Board of Regents ~~may~~ **shall** request documentation from a person requesting a waiver pursuant to subsection 1 as it deems necessary to verify that such a person was a homeless or unaccompanied pupil ~~[.], except that:~~

(a) ***A person who provides documentation which meets the standards under 20 U.S.C. § 1087uu-2(a) and related federal regulations shall not be***

required to provide any additional documentation to verify that such a person was a homeless or unaccompanied pupil.

(b) Any person who has been verified as a homeless or unaccompanied pupil for one academic year is presumed to be a homeless or unaccompanied pupil for each subsequent year, unless the person informs an institution within the System that circumstances have changed or the institution has specific conflicting information about the person's status and has informed the person of the conflicting information.

5. The amount of any waiver granted pursuant to subsection 1 must be equal to:

(a) If the person is entitled to receive any federal educational benefits for a semester, the balance of registration fees, laboratory fees and any other mandatory fees assessed against the person that remain unpaid after the person's account has been credited with the full amount of the federal educational benefits to which the person is entitled for that semester; or

(b) If the person is not entitled to receive any federal educational benefits for a semester, the full amount of the registration fees, laboratory fees and any other mandatory fees assessed against the pupil for that semester.

6. A waiver granted pursuant to subsection 1 must be granted to a person who enrolls in a program offered by a school within the System, including, without limitation, a trade or vocational program, a graduate program or a professional program.

7. Each institution within the System shall designate one employee as a point of contact for questions concerning the administration of the waiver of fees pursuant to this section.

8. As used in this section:

(a) "Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

(b) "Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).

Sec. 5. NRS 396.5913 is hereby amended to read as follows:

396.5913 As used in NRS 396.5913 to 396.594, inclusive, **and section 2 of this act**, unless the context otherwise requires, the words and terms defined in NRS 396.5916, 396.592 and 396.5923 have the meanings ascribed to them in those sections.

Sec. 6. NRS 396.5916 is hereby amended to read as follows:

396.5916 "Homeless pupil" has the meaning ascribed to ~~it in 45 C.F.R. § 1355.20,~~ **the term "homeless children and youths" in 42 U.S.C. § 11434a(2).**

Sec. 7. NRS 396.5926 is hereby amended to read as follows:

396.5926 1. There is hereby created the Liaison for Post-Secondary Education for Homeless Pupils within the System.

2. The Governor shall ~~[, to the extent that money is available for that purpose,]~~ appoint the Liaison for Post-Secondary Education for Homeless Pupils for a term of 4 years. The Liaison is in the unclassified service of the State. The person appointed:

(a) Must be knowledgeable in the various issues relating to homeless and unaccompanied pupils, including, without limitation ~~[the]~~:

(1) ***The provisions of the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., relating to education for homeless children and youths;***

(2) ***The provisions of the College Cost Reduction and Access Act of 2007, Public Law 110-84;***

(3) ***The Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090; and***

(4) ***Other federal programs, grants and assistance which benefit homeless and unaccompanied pupils;***

(b) Must be independent of and have no pecuniary interest in any organization or entity that provides services to homeless and unaccompanied pupils;

(c) Except as otherwise provided in NRS 284.143, shall devote all of his or her time to the business of his or her office and shall not pursue any other business or vocation or hold any other office of profit; and

(d) Must not be a member of any political convention or a member of any committee of any political party.

3. The Governor may remove the Liaison from office for inefficiency, neglect of duty or malfeasance in office.

Sec. 8. NRS 396.594 is hereby amended to read as follows:

396.594 1. ~~[To the extent that money is available, the]~~ ***The*** Liaison shall:

(a) Conduct an annual analysis of homeless and unaccompanied pupils in this State to assess the needs of such pupils;

(b) Develop a database to track, monitor and analyze trends in the rates of graduation and retention of homeless and unaccompanied pupils;

(c) Develop a model for college and career readiness for homeless and unaccompanied pupils;

(d) Collaborate with ~~[persons at a high school]~~ ***the local educational agency liaisons for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq. and*** responsible for assisting homeless and unaccompanied pupils;

(e) Collaborate with high schools ***and the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq.*** to identify homeless and unaccompanied pupils to refer such pupils to appropriate support services after the admission of such pupils to an institution of higher education within this State;

(f) Establish connections between and collaborate with financial aid offices, student support services and campus housing services of institutions of higher education within this State;

(g) Identify and refer homeless and unaccompanied pupils to mentoring programs;

(h) Increase awareness among teachers, instructors, professors , *staff of financial aid offices, student support services and campus housing services* and other staff members of institutions of higher education who work with pupils on issues relating to homeless and unaccompanied pupils, including, without limitation, identifying such pupils and referring such pupils to appropriate resources;

(i) Establish and maintain a database of food banks, clothing banks and low-cost health care providers, to be provided, without limitation, to financial aid offices and student support services of institutions of higher education within this State;

(j) Identify and coordinate with food banks and clothing banks or establish one or more food banks or clothing banks on a campus of an institution of higher education within this State to provide services to homeless and unaccompanied pupils;

(k) Establish a plan for housing homeless and unaccompanied pupils when campus housing is not available, including, without limitation, establishing a list of host homes in the local community and keeping one or more campus housing buildings open; ~~and~~

(l) Apply for and accept grants awarded through the College Cost Reduction and Access Act of 2007, Public Law 110-84 ~~§~~ ;

(m) Assist students in resolving any problems related to the waiver of fees for homeless or unaccompanied pupils granted pursuant to NRS 396.5448; and

(n) Establish a plan to ensure access by homeless and unaccompanied pupils to on-campus support, including, without limitation, academic support, mental and physical health services, transportation and life skills instruction.

2. As used in this section, “institution of higher education” has the meaning ascribed to it in NRS 385.102.

Sec. 9. This act becomes effective on July 1, 2023.

Assemblywoman Bilbray-Axelrod moved the adoption of the amendment.

Remarks by Assemblywoman Bilbray-Axelrod.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 239.

Bill read second time.

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

Amendment No. 73.

AN ACT relating to governmental administration; creating the Merit Award Account in the State General Fund for purposes of funding awards to certain state employees; eliminating the limitation on awards to certain state employees from being paid from money in the State General Fund; requiring, under certain circumstances, the Advisory Council for Family Engagement to

submit to certain appointing authorities a list of persons qualified for membership on the Council; revising the membership of the Committee for the Statewide Alert System; ~~requiring~~ **authorizing** the Committee on Testing for Intoxication to study ~~and~~ make certain recommendations to the Director of the Department of Public Safety **and take certain action** relating to driving under the influence; revising the authority of the Committee to adopt certain regulations; revising the term of membership of the Chair of the Appeals Panel for Industrial Insurance; authorizing the Commissioner of Insurance to perform certain actions relating to meetings of the Appeals Panel; revising provisions relating to vacancies in the membership of the Medical Laboratory Advisory Committee; revising provisions relating to meetings of the Credit Union Advisory Council; eliminating the requirement that members of the Advisory Council receive a salary for attendance at meetings; making appropriations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Merit Award Program and requires that the Merit Award Board investigate, review and evaluate the merits of certain proposed suggestions of any state employee or group of state employees. (NRS 285.020, 285.030, 285.040) Existing law provides that an award made from the Program must, insofar as is practicable, be paid from money other than money in the State General Fund. (NRS 285.070) **Section 1** of this bill creates the Merit Award Account in the State General Fund, to be administered by the Board. **Section 2** of this bill eliminates the limitation on money from the State General Fund being used to pay for an award. **Section 15** of this bill makes an appropriation to the Board for the purpose of funding the administration of the Board during the 2023-2025 biennium. **Section 16** of this bill makes an appropriation to the Merit Award Account to provide funding for merit awards to state employees from the Program during the 2023-2025 biennium.

Existing law requires the Superintendent of Public Instruction to establish an Advisory Council for Family Engagement, composed of 11 members, that has various duties relating to parental involvement and family engagement in schools. The members of the Advisory Council are appointed by the Superintendent, Speaker of the Assembly and Majority Leader of the Senate. (NRS 385.610) **Section 3** of this bill requires the Advisory Council, at least 30 days before the beginning of any member's term, or within 30 days after a position on the Advisory Council becomes vacant, to submit to the relevant appointing authority the names of at least three persons who are qualified for membership on the Advisory Council.

Existing law creates the Statewide Alert System for the Safe Return of Abducted Children, which is composed of a voluntary partnership among certain law enforcement agencies and broadcasters to assist in the search for and safe return of abducted children. (NRS 432.340) The System is overseen, supervised, evaluated, monitored and tested by the Committee for the Statewide Alert System, in consultation with the Attorney General. (NRS 432.360) The Committee consists of 15 members, including, in relevant part,

5 members who represent local law enforcement agencies, appointed by the Governor and 5 members who represent state law enforcement agencies, appointed by the Governor. (NRS 432.350) **Section 4** of this bill provides instead that the Committee consists of 11 members, including, in relevant part, 3 members who represent local law enforcement agencies, appointed by the Governor from among a list of nominees from the Committee and 3 members who represent state law enforcement agencies, appointed by the Governor from among a list of nominees from the Committee.

Existing law creates the Committee on Testing for Intoxication, consisting of five members. (NRS 484C.600) The Committee has various duties relating to certifying devices that test a person's breath to determine the concentration of alcohol in the person's breath. (NRS 484C.610) **Section ~~4~~ 8** of this bill ~~[requires]~~ **authorizes** the Committee to also **: (1) study and make recommendations to the Director of the Department of Public Safety regarding the best practices, technologies and methods of detecting and determining the concentration of alcohol or the presence of a controlled substance or another prohibited substance** and the effect of driving under the influence of ~~[intoxicating liquor]~~ **alcohol**, a controlled substance or other prohibited substance ~~[. Section 5 revises the existing duties of the Committee to include certifying certain devices]~~ **; (2) determine and certify whether a device or method is accurate and reliable** for the purpose of testing a sample to determine the concentration of **alcohol or the presence of** a controlled substance or ~~[other]~~ **another** prohibited substance ~~[. Sections 6-8 of this bill revise the authority of the Committee to adopt certain regulations relating to calibrating certain devices and the certification of persons to operate certain devices to test the concentration of alcohol in a person's body to include]~~ **; and (3) create, maintain and make available to the public a list of those devices and methods certified by the Commission. Section 8 further provides that if a device or method has been certified by the Committee to be accurate and reliable for the purpose of** testing a ~~[sample for]~~ **person's blood, urine or other sample to determine the concentration of alcohol or the presence of** a controlled substance or ~~[other]~~ **another** prohibited substance. **Section 9** of this bill makes a conforming change to clarify that evidence of certain tests are not admissible in a criminal proceeding unless it is shown that the device for testing a person's breath or other sample was certified by the Committee and was calibrated, maintained and operated as provided in such regulations.

Existing law creates the Appeals Panel for Industrial Insurance, consisting of seven members, to hear certain grievances related to industrial insurance. (NRS 616B.760-616B.787) The Appeals Panel must meet at the times and places specified by a call of the Chair of the Appeals Panel, and the Chair must: (1) schedule meetings and hearings of the Appeals Panel; (2) establish the agenda for each such meeting and hearing; and (3) ensure that such meetings are conducted in an efficient manner. (NRS 616B.765, 616B.767) **Sections 11 and 12** of this bill provide instead that the Chair or Commissioner of Insurance is required to carry out these duties.

Existing law creates the Medical Laboratory Advisory Committee to advise the State Board of Health on matters of policy concerning medical laboratories, qualifications of laboratory directors and personnel and certain other matters. The Board is required to appoint various persons to the Advisory Committee. (NRS 652.030, 652.160, 652.170) **Section 13** of this bill: (1) provides that if a vacancy in the membership of the Advisory Committee occurs, the Advisory Committee is required to submit a letter to the Board with a recommendation to fill the existing vacancy; and (2) requires the Advisory Committee to determine at least once per year whether any vacancy in its membership exists. **Section 13** also requires the Advisory Committee to meet at least once every year.

Existing law creates the Credit Union Advisory Council, consisting of five members appointed by the Governor, to consult with, advise and make recommendations to the Commissioner of Financial Institutions in all matters pertaining to credit unions. (NRS 672.061, 672.290) **Section 14** of this bill: (1) clarifies that the Advisory Council may meet at least once every 6 months; and (2) eliminates the existing provision that council members are entitled to receive a certain salary for attendance at meetings.

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

Section 1. Chapter 285 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Merit Award Account is hereby created in the State General Fund.*

2. *The Board shall administer the Merit Award Account.*

3. *The money in the Merit Award Account may be expended only for the purposes of the Merit Award Program established by NRS 285.020.*

4. *The interest and income earned on the money in the Merit Award Account must be credited to the Account.*

5. *The balance remaining in the Merit Award Account that has not been committed for expenditure on or before June 30 of an odd-numbered year reverts to the State General Fund.*

Sec. 2. NRS 285.070 is hereby amended to read as follows:

285.070 1. Except as otherwise provided in this section, after reviewing and evaluating an employee suggestion, the Board, in consultation with the Budget Division of the Office of Finance, may make an award to the state employee or to each state employee of a group of state employees who submitted the employee suggestion.

2. If the amount of a proposed award will exceed \$5,000, the award must be approved by the Interim Finance Committee. On a quarterly basis, the Board shall transmit any proposed awards that exceed \$5,000 to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee. In acting upon such an award, the Interim Finance Committee shall consider, among other things:

(a) The reduction, elimination or avoidance of state expenditures or any improvement in the operation of the State Government made possible by the employee suggestion; and

(b) The intent of the Legislature in enacting this chapter.

3. An award made pursuant to this section may not exceed:

(a) Ten percent of the amount of any actual savings to the State, as determined at the end of the second fiscal year after the adoption of the employee suggestion; or

(b) A total of \$25,000,

↪ whichever is less, whether distributed to an individual employee or to a group of state employees who submitted the employee suggestion.

4. Awards to employees arising out of adopted employee suggestions must, ~~[insofar as is practicable,]~~ be paid from money ~~[other than money]~~ in the ~~[State General Fund.]~~ ***Merit Award Account created by section 1 of this act.***

5. The total amount of an award made pursuant to this section must be paid in two equal installments. The first installment must be paid not later than 90 days after the end of the fiscal year during which the State realized a reduction, elimination or avoidance of state expenditures or any improvement in the operation of State Government as a result of the adoption of the employee suggestion. The second installment must be paid not later than 90 days after the end of the fiscal year immediately following the fiscal year during which the first installment was paid.

6. A former state employee is eligible to receive an award pursuant to this section if the person was a state employee at the time he or she submitted an employee suggestion, or was a member of a group of state employees who submitted an employee suggestion, that is subsequently adopted.

7. An award may not be made for an employee suggestion pursuant to this section until the State has realized a reduction, elimination or avoidance of state expenditures or any improvement in the operation of the State Government as a result of the adopted employee suggestion.

8. Any actual savings to the State resulting from the adoption of an employee suggestion that remains after an award is made pursuant to this section must be distributed as follows:

(a) Fifty percent must be transferred to the State General Fund; and

(b) After a revision to the appropriate work program pursuant to NRS 353.220, the remaining balance must be used by the state agency that employs the state employee or the group of state employees who submitted the employee suggestion for one-time, nonoperational expenses which do not require ongoing maintenance, including, without limitation, training and equipment.

Sec. 3. NRS 385.610 is hereby amended to read as follows:

385.610 1. The Superintendent of Public Instruction shall establish an Advisory Council for Family Engagement. The Advisory Council is composed of 11 members.

2. The Superintendent of Public Instruction shall appoint the following members to the Advisory Council:

- (a) Two parents or legal guardians of pupils enrolled in public schools;
- (b) Two teachers in public schools;
- (c) One administrator of a public school;
- (d) One representative of a private business or industry;
- (e) One member of the board of trustees of a school district in a county whose population is 100,000 or more;
- (f) One member of the board of trustees of a school district in a county whose population is less than 100,000; and
- (g) One member who is the President of the Board of Managers of the Nevada Parent Teacher Association or its successor organization, or a designee nominated by the President.

↪ The Superintendent of Public Instruction shall, to the extent practicable, ensure that the members the Superintendent appoints to the Advisory Council reflect the ethnic, economic and geographic diversity of this State.

3. The Speaker of the Assembly shall appoint one member of the Assembly to the Advisory Council.

4. The Majority Leader of the Senate shall appoint one member of the Senate to the Advisory Council.

5. The Advisory Council shall elect a Chair and Vice Chair from among its members. The Chair and Vice Chair serve a term of 1 year.

6. After the initial terms:

- (a) The term of each member of the Advisory Council who is appointed by the Superintendent of Public Instruction is 3 years.
- (b) The term of each member of the Advisory Council who is appointed by the Speaker of the Assembly and the Majority Leader of the Senate is 2 years.

7. ***The Advisory Council shall, at least 30 days before the beginning of any member's term, or within 30 days after a position on the Advisory Council becomes vacant, submit to the relevant appointing authority, as set forth in subsection 2, 3 or 4, as applicable, the names of at least three persons qualified for membership on the Advisory Council.***

8. The Department shall provide:

- (a) Administrative support to the Advisory Council; and
- (b) All information that is necessary for the Advisory Council to carry out its duties.

~~{8-}~~ 9. For each day or portion of a day during which a member of the Advisory Council who is a Legislator attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council, except during a regular or special session of the Legislature, the member is entitled to receive the:

- (a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;
- (b) Per diem allowance provided for state officers generally; and
- (c) Travel expenses provided pursuant to NRS 218A.655.

↪ The compensation, per diem allowances and travel expenses of the legislative members of the Advisory Council must be paid from the Legislative Fund.

~~{9-}~~ **10.** A member of the Advisory Council who is not a Legislator is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which the member attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council. The per diem allowance and travel expenses for the members of the Advisory Council who are not Legislators must be paid by the Department.

~~{10-}~~ **11.** Any costs associated with employing a substitute teacher while a member of the Advisory Council who is a teacher attends a meeting of the Advisory Council must be paid by the school district or charter school that employs the member.

Sec. 4. NRS 432.350 is hereby amended to read as follows:

432.350 1. There is hereby created the Committee for the Statewide Alert System consisting of ~~{15}~~ **11** members as follows:

(a) ~~{Five}~~ **Three** members ~~{appointed by the Governor}~~ who represent local law enforcement agencies ~~{ }~~, ***appointed by the Governor from among the names of nominees provided to the Governor pursuant to subsection 5;***

(b) ~~{Five}~~ **Three** members ~~{appointed by the Governor}~~ who represent state law enforcement agencies ~~{ }~~, ***appointed by the Governor from among the names of nominees provided to the Governor pursuant to subsection 5;***

(c) One representative of this State's Emergency Alert System, appointed by the Nevada Broadcasters Association or its successor;

(d) One representative of the Nevada Broadcasters Association or its successor, appointed by that Association;

(e) One representative of the Department of Transportation, appointed by the Director of the Department of Transportation;

(f) The Advocate for Missing or Exploited Children, appointed pursuant to NRS 432.157; and

(g) One representative of the public at large, appointed by the Governor from among the names of nominees provided to the Governor pursuant to subsection 5.

2. The Governor shall select a Chair and Vice Chair of the Committee.

3. After the initial terms, each member of the Committee serves a term of 3 years. A vacancy on the Committee must be filled in the same manner as the original appointment.

4. Members of the Committee serve without salary or compensation, except that, while engaged in the business of the Committee, each member who is not an officer or employee of the State may receive the per diem allowance and travel expenses provided for state officers and employees generally, to the extent that money is available in the Account for that purpose.

5. The Committee shall, at least 30 days before the beginning of the term of any member appointed pursuant to paragraph **(a), (b) or** (g) of subsection 1,

or within 30 days after such a position on the Committee becomes vacant, submit to the Governor the names of at least three persons qualified for membership on the Committee pursuant to paragraph (a), (b) or (g) , *as applicable*, of subsection 1. ***In making a list of names, the Committee shall provide nominees who represent the demographic diversity of this State.*** The Governor shall appoint a new member or fill the vacancy from the list, or request a new list. The Governor may appoint any qualified person who is a resident of this State to the position described in paragraph (g) of subsection 1.

Sec. 5. ~~NRS 484C.610 is hereby amended to read as follows:~~
~~484C.610 1. The Committee on Testing for Intoxication shall:~~
~~(a) Study and make recommendations to the Director of the Department of Public Safety regarding the best practices, technologies and methods of detecting and determining the presence of and the effect of driving under the influence of intoxicating liquor, a controlled substance or other prohibited substance;~~
~~(b) In the manner set forth in subsection 2, certify a device that the Committee determines is designed and manufactured to be accurate and reliable for the purpose of testing a person's breath or other sample to determine the concentration of alcohol, a controlled substance or other prohibited substance in the person's breath [;] or other sample; and~~
~~[(b)] (c) Create, maintain and make available to the public, free of charge, a list of those devices certified by the Committee, described by manufacturer and type;~~
~~2. To determine whether a device is designed and manufactured to be accurate and reliable for the purpose of testing a person's breath or other sample to determine the concentration of alcohol, a controlled substance or another prohibited substance in the person's breath [,] or other sample, the Committee may:~~
~~(a) Use the list of qualified products meeting the requirements for evidential [breath testing] testing devices of the National Highway Traffic Safety Administration; or~~
~~(b) Establish its own standards and procedures for evaluating those devices and obtain evaluations of the devices from the Director of the Department of Public Safety or the agent of the Director;~~
~~3. If such a device has been certified by the Committee to be accurate and reliable pursuant to this section, it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath or other sample to determine the concentration of alcohol, a controlled substance or another prohibited substance in the person's breath [,] or other sample;~~
~~4. This section does not preclude the admission of evidence of the concentration of alcohol, a controlled substance or another prohibited substance in a [person's breath] person's body where the information is~~

obtained through the use of a device other than one of a type certified by the Committee.] **(Deleted by amendment.)**

Sec. 6. ~~[NRS 484C.620 is hereby amended to read as follows:~~

~~484C.620 1. The Committee on Testing for Intoxication shall adopt regulations which:~~

~~— (a) Prescribe standards and procedures for calibrating devices used for testing a person's breath *or other sample* to determine the concentration of alcohol, *a controlled substance or another prohibited substance* in the [person's breath.] *person's body*. The regulations must specify the period within which a law enforcement agency that uses such a device must calibrate it or have it calibrated by the Director of the Department of Public Safety or the agent of the Director.~~

~~— (b) Establish methods for ascertaining the competence of persons to calibrate such devices and provide for the examination and certification of those persons by the Department of Public Safety. A certificate issued by the Department may not be made effective for longer than 3 years.~~

~~— (c) Prescribe the form and contents of records respecting the calibration of such devices which must be kept by a law enforcement agency and any other records respecting the maintenance or operation of those devices which it finds should be kept by such an agency.~~

~~2. The Director of the Department of Public Safety shall issue a certificate to any person who is found competent to calibrate such a device or examine others on their competence in that calibration.] **(Deleted by amendment.)**~~

Sec. 7. ~~[NRS 484C.630 is hereby amended to read as follows:~~

~~484C.630 1. The Committee on Testing for Intoxication shall adopt regulations which:~~

~~— (a) Establish methods for ascertaining the competence of persons to:~~

~~— (1) Operate devices for testing a person's breath *or other sample* to determine the concentration of alcohol, *a controlled substance or other prohibited substance* in the [person's breath.] *person's body*.~~

~~— (2) Examine prospective operators and determine their competence.~~

~~— (b) Provide for certification of operators and examiners by the Department of Public Safety. A certificate issued by the Department may not be made effective for longer than 3 years.~~

~~— A person who is certified as an examiner is presumed to be certified as an operator.~~

~~2. The Director of the Department of Public Safety shall issue a certificate to any person who is found competent to operate such a device or examine others on their competence in that operation.~~

~~3. A court shall take judicial notice of the certification of a person to operate devices of one of the certified types. If a test to determine the concentration of alcohol in a person's breath *or other sample* has been performed with a certified type of device by a person who is certified pursuant to this section, it is presumed that the person operated the device properly.~~

~~4. This section does not preclude the admission of evidence of a test of a person's breath or other sample where the test has been performed by a person other than one who is certified pursuant to this section.~~ **(Deleted by amendment.)**

Sec. 8. NRS 484C.640 is hereby amended to read as follows:

484C.640 1. The Committee on Testing for Intoxication may ~~adopt~~ :

(a) Study and make recommendations to the Director of the Department of Public Safety regarding the best practices, technologies and methods of detecting and determining the concentration of alcohol or the presence of a controlled substance or another prohibited substance and the effect of driving under the influence of alcohol, a controlled substance or another prohibited substance;

(b) Determine and certify whether a device or method is accurate and reliable for the purpose of testing a person's blood, urine or other sample to determine the concentration of alcohol or the presence of a controlled substance or another prohibited substance;

(c) Create, maintain and make available to the public, free of charge, a list of those devices or methods certified by the Committee;

(d) Adopt regulations that ~~require~~ :

~~=(a) The~~ :

(1) Require the calibration ~~or verification~~ of devices ~~or methods~~ which are used to test a person's blood , ~~for~~ urine ~~or other sample~~ to determine the concentration of alcohol or the presence of a controlled substance or another prohibited substance in the person's blood , ~~for~~ urine ~~[-person's body-]~~ ~~or other sample;~~

~~[(b) The]~~

(2) Require the certification of persons who make those calibrations ~~[-]~~ ~~or verifications;~~

~~[(c) The]~~

(3) Require the certification of persons who operate devices ~~or methods~~ for testing a person's blood , ~~for~~ urine ~~or other sample~~ to determine the concentration of alcohol or presence of a controlled substance or another prohibited substance in the person's blood , ~~for~~ urine ~~[-person's body-]~~ ~~and~~ ~~or other sample;~~

~~[(d) The]~~

(4) Require the certification of persons who examine those operators ~~[-]~~ ~~;~~ ~~and~~

~~[-2. The Committee may adopt regulations that prescribe]~~

(5) Prescribe the essential procedures for the proper operation of the various types of devices ~~used~~ ~~or methods~~ to test a person's blood , ~~for~~ urine ~~or other sample~~ to determine the concentration of alcohol or the presence of a controlled substance or another prohibited substance in the person's blood , ~~for~~ urine ~~[-person's body-]~~ ~~or other sample.~~

2. If a device or method has been certified by the Committee to be accurate and reliable pursuant to this section, it is presumed that the device

or method is accurate and reliable for the purpose of testing a person's blood, urine or other sample to determine the concentration of alcohol or the presence of a controlled substance or another prohibited substance.

3. This section does not preclude the admission of evidence of the concentration of alcohol or the presence of a controlled substance or another prohibited substance in a person's blood, urine or other sample where the information is obtained through the use of a device or method other than one certified by the Committee.

Sec. 9. NRS 488.480 is hereby amended to read as follows:

488.480 1. If a person refuses to submit to a required chemical test provided for in NRS 488.450 or 488.460, evidence of that refusal is admissible in any criminal action arising out of acts alleged to have been committed while the person was:

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.

2. Except as otherwise provided in subsection 3 of NRS 488.450, a court may not exclude evidence of a required test or failure to submit to such a test if the peace officer or other person substantially complied with the provisions of NRS 488.450 to 488.500, inclusive.

3. If a person submits to a chemical test provided for in NRS 488.450 or 488.460, full information concerning that test must be made available, upon request, to the person or the person's attorney.

4. Evidence of a required test is not admissible in a criminal proceeding unless it is shown by documentary or other evidence that the device for testing ***a person's breath or other sample*** was certified pursuant to NRS 484C.610 ***or 484C.640, as applicable,*** and was calibrated, maintained and operated as provided by the regulations of the Committee on Testing for Intoxication adopted pursuant to NRS 484C.620, 484C.630 or 484C.640.

5. If the device for testing ***a person's breath or other sample*** has been certified by the Committee on Testing for Intoxication to be accurate and reliable pursuant to NRS 484C.610 ~~or~~ ***or 484C.640,*** it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath ***or other sample*** to determine the concentration of alcohol, ***a controlled substance or ~~either~~ another prohibited substance*** in the person's breath ~~or~~ ***or other sample.***

6. A court shall take judicial notice of the certification by the Director of a person to operate testing devices of one of the certified types. If a test to determine the amount of alcohol ***a controlled substance or ~~either~~ another prohibited substance*** in a person's breath ***or other sample*** has been performed with a certified type of device by a person who is certified pursuant to NRS 484C.630 or 484C.640, it is presumed that the person operated the device properly.

7. This section does not preclude the admission of evidence of a test of a person's breath *or other sample* where the:

(a) Information is obtained through the use of a device other than one of a type certified by the Committee on Testing for Intoxication.

(b) Test has been performed by a person other than one who is certified by the Director.

8. As used in this section, "Director" means the Director of the Department of Public Safety.

Sec. 10. NRS 616B.762 is hereby amended to read as follows:

616B.762 1. ~~At its first meeting of each year, the~~ **The** Appeals Panel shall elect a Chair from among its members.

2. The Chair shall hold office for 1 year ~~[-] and until his or her successor is elected.~~

3. If a vacancy occurs in the office of the Chair, the members of the Panel shall elect a Chair from among its members for the remainder of the unexpired term of the Chair.

~~[4. Unless the members agree unanimously to a different date, the first meeting of each year must be as soon as practicable after July 1.]~~

Sec. 11. NRS 616B.765 is hereby amended to read as follows:

616B.765 1. The Chair of the Appeals Panel *or the Commissioner* shall:

(a) Schedule the time and place of the meetings and hearings of the Appeals Panel;

(b) Establish the agenda for each meeting and hearing of the Appeals Panel; and

(c) Ensure that the meetings of the Appeals Panel are conducted in an efficient manner.

2. The Chair of the Appeals Panel may appoint from the membership of the Appeals Panel a secretary to whom the Chair may delegate his or her administrative functions.

Sec. 12. NRS 616B.767 is hereby amended to read as follows:

616B.767 1. The Appeals Panel shall meet at the times and places specified by a call of the Chair ~~[-] or the Commissioner.~~

2. Four members of the Appeals Panel constitute a quorum to transact all business, and a majority of those present must concur on any decision.

Sec. 13. NRS 652.170 is hereby amended to read as follows:

652.170 1. The Board shall appoint the members of the Medical Laboratory Advisory Committee.

2. After the initial terms, members shall serve for 3-year terms.

3. A member may not serve for more than two consecutive terms. Service of 2 or more years in filling an unexpired term constitutes a term.

4. The Advisory Committee is composed of:

(a) Two pathologists, certified in clinical pathology by the American Board of Pathology.

(b) Two medical technologists.

(c) One bioanalyst who is a laboratory director.

(d) One qualified biochemist from the Nevada System of Higher Education.

(e) One licensed physician actively engaged in the practice of clinical medicine in this State.

5. No member of the Advisory Committee may have any financial or business arrangement with any other member which pertains to the business of laboratory analysis.

6. The Chief Medical Officer or a designated representative of the Chief Medical Officer is an ex officio member of the Advisory Committee.

7. *If a vacancy occurs in the membership of the Advisory Committee, the Advisory Committee shall submit a letter to the Board with a recommendation to fill the existing vacancy. The Advisory Committee shall, at least once per year, determine whether any vacancy in the membership of the Advisory Committee exists.*

8. *The Advisory Committee shall meet at least once every year.*

9. Each member of the Advisory Committee is entitled to receive:

(a) A salary of not more than \$60, as fixed by the Board, for each day's attendance at a meeting of the Committee; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Committee. The rate must not exceed the rate provided for state officers and employees generally.

~~{8.}~~ 10. While engaged in the business of the Committee, each employee of the Committee 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. 14. NRS 672.290 is hereby amended to read as follows:

672.290 1. The Credit Union Advisory Council, consisting of five members appointed by the Governor, is hereby created to consult with, advise and make recommendations to the Commissioner in all matters pertaining to credit unions.

2. The Governor shall appoint members who have tested credit union experience from a list of recommended names submitted by the Nevada Credit Union League.

3. After the initial terms, members serve terms of 4 years, except when appointed to fill unexpired terms.

4. The Chair of the Advisory Council must be elected annually by and from the members thereof.

5. The meetings of the Advisory Council may be held at such times and places as the Chair or Commissioner determines and may ~~be held regularly~~ **meet** at least once every 6 months.

~~{6. Council members are entitled to receive a salary of \$60 for each day's attendance at a meeting of the Council.}~~

Sec. 15. 1. There is hereby appropriated from the State General Fund to the Merit Award Board described in NRS 285.030 the sum of \$3,000 for the purpose of funding the administration of the Board during the 2023-2025 biennium.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2025, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2025, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2025.

Sec. 16. 1. There is hereby appropriated from the State General Fund to the Merit Award Account created by section 1 of this act the sum of \$25,000 for the purpose of providing merit awards during the 2023-2025 biennium pursuant to the Merit Award Program established by NRS 285.020.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2025, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2025, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2025.

Sec. 17. 1. This section and sections 1, 15 and 16 of this act become effective upon passage and approval.

2. Sections 6 to 9, inclusive, of this act become effective:

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

(b) On January 1, 2024, for all other purposes.

3. Sections 2 to 5, inclusive, 10 to 14, inclusive, of this act become effective on July 1, 2023.

Assemblywoman Marzola moved the adoption of the amendment.

Remarks by Assemblywoman Marzola.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 258.

Bill read second time.

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

Amendment No. 133.

~~[ASSEMBLYWOMAN]~~ **ASSEMBLYWOMEN BACKUS ; AND KASAMA**

AN ACT relating to governmental administration; requiring, with certain exceptions, a governmental ~~[agency]~~ **entity** to keep confidential certain personal information regarding donors, members or volunteers of a nonprofit organization; prohibiting, with certain exceptions, a governmental ~~[agency]~~ **entity** from requesting or releasing certain personal information regarding

donors, members or volunteers of a nonprofit organization; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain governmental agencies to collect certain personal information. (Chapter 239B of NRS) Existing law also prohibits, with certain exceptions, a governmental agency from requiring a person to include personal information on any document submitted to the governmental agency after a certain date. (NRS 239B.030) **Section 2** of this bill requires, with certain exceptions, a governmental ~~[agency]~~ **entity** to keep confidential any personal information in the records of the governmental ~~[agency]~~ **entity** that identifies a person as a donor, member or volunteer of a nonprofit organization. **Section 2** also prohibits, with certain exceptions, a governmental ~~[agency]~~ **entity** from: (1) requiring that any person or nonprofit organization provide the ~~[agency]~~ **governmental entity** with personal information that identifies a donor, member or volunteer of a nonprofit organization; (2) releasing, publicizing or otherwise publicly disclosing personal information that identifies a donor, member or volunteer of a nonprofit organization; or (3) requesting or requiring a current or prospective contractor or grantee to provide a list of nonprofit organizations to which the contractor or grantee has provided support. **Section 2** provides that the personal information that identifies a donor, member or volunteer of a nonprofit organization includes any list, record, register, roster or other data of any kind that includes a donation, name, address or telephone number that directly or indirectly identifies a person as a donor of financial or nonfinancial support, member or volunteer of any nonprofit organization.

Section 2 provides that a person who ~~[believes]~~ **alleges** that a governmental ~~[agency]~~ **entity** or an officer or employee of a governmental ~~[agency]~~ **entity** has violated these provisions may bring a civil action to obtain certain relief, including damages in an amount of not less than: (1) \$2,500 for a violation; and (2) \$7,500 for an intentional violation. **Section 2** further provides that any officer or employee of a governmental ~~[agency]~~ **entity** who knowingly and willfully violates these provisions is guilty of a misdemeanor.

Section 1 of this bill makes a conforming change to provide that such personal information is not a public record.

Section 3 of this bill makes a conforming change to prohibit the Secretary of State, in carrying out certain requirements of existing law, from collecting or disclosing any information that directly identifies a person as a donor of financial support to a nonprofit organization.

Section 4 of this bill makes a conforming change to provide that any information collected by the Attorney General in an audit, examination or investigation of a corporation for public benefit or a corporation holding assets in a charitable trust may only be used in connection with the audit, examination or investigation and is otherwise subject to the requirements of section 2.

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

Section 1. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754,

439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 2 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in

any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

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

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

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

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

Sec. 2. Chapter 239B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, a governmental ~~agency~~ entity shall maintain in a confidential manner any personal information that identifies a person as a donor, member or volunteer of a nonprofit organization.

2. Except as otherwise provided in subsection 3, a governmental ~~agency~~ entity shall not:

(a) Require any person or nonprofit organization to provide the governmental ~~agency~~ entity with personal information that identifies a person as a donor, member or volunteer of a nonprofit organization or otherwise compel the release of such personal information;

(b) Release, publicize or otherwise publicly disclose personal information in possession of the governmental ~~agency~~ entity that identifies a person as a donor, member or volunteer of a nonprofit organization; or

(c) Request or require a current or prospective contractor or grantee working with the governmental ~~agency~~ entity to provide a list of nonprofit organizations to which the contractor or grantee has provided financial or nonfinancial support.

3. The provisions of subsections 1 and 2 do not apply to personal information that identifies a person as a donor, member or volunteer of a nonprofit organization that is requested, obtained, released or disclosed as a result of the following:

(a) Any personal information required to be disclosed for the purpose of complying with any provision of federal law;

(b) Any information, report or disclosure required to be filed with the Secretary of State pursuant to title 7 of NRS provided that, except as otherwise provided in this subsection, any information that directly identifies a person as a donor of financial support to a nonprofit organization must not be collected or disclosed;

(c) Any report or disclosure required to be filed pursuant to chapter 294A of NRS;

(d) Any confidential information shared pursuant to NRS 232.357;

(e) Any warrant issued by a court of competent jurisdiction;

(f) Any request for information in connection with discovery proceedings if:

(1) ~~The requester demonstrates a compelling need by clear and convincing evidence for~~ relevant and probative value of the information ~~is~~ requested outweighs its prejudicial effect ; and

(2) The requester obtains a protective order from the court barring the disclosure of such information to any person not named in the proceedings;

(g) Any personal information voluntarily released by a person to the governmental ~~agency~~ entity or any personal information voluntarily released by a nonprofit organization to the public;

(h) Any personal information resulting from a donation to a nonprofit organization that is affiliated with a governmental ~~agency~~ entity that was disclosed to the governmental ~~agency~~ entity pursuant to state law if the person did not request anonymity from the nonprofit organization;

(i) Any personal information admitted as evidence before a court of competent jurisdiction, if the court finds there is good cause for the public release of such information;

(j) Any requests for screenings submitted by a nonprofit organization pursuant to NRS 179A.325;

(k) Any contract or agreement entered into by a nonprofit organization with a governmental ~~agency~~ entity, including for purposes of obtaining a governmental benefit or grant, whereby the governmental ~~agency~~ entity is authorized to or any statute which expressly authorizes a governmental

~~[agency]~~ entity to inspect the records of the nonprofit organization, including, without limitation, a contract or agreement entered into pursuant to NRS 427A.085, 433.354, 433B.220 or 439.155;

(l) Any report required to be filed by a nonprofit organization and posted by the Department of Health and Human Services on the Internet website maintained by the Department pursuant to NRS 439B.665 and 439B.670;

(m) Any information required to be filed by a nonprofit organization of surplus line brokers with the Commissioner of Insurance pursuant to NRS 685A.075; ~~and~~

(n) Any information submitted to a governmental ~~[agency]~~ entity by a national securities association that is registered pursuant to 15 U.S.C. § 78o-3 or any regulation adopted pursuant thereto ~~to~~, including, without limitation, any information submitted to the Secretary of State pursuant to chapters 90 and 91 of NRS and any regulations adopted pursuant thereto for the purposes of licensing, registration, examination, investigation or enforcement;

(o) Any requirement to disclose the relationship between a public officer or employee and a nonprofit organization pursuant to NRS 281A.420, as a response to a lawful request or subpoena in an investigation or as part of or in response to a request for an advisory opinion submitted pursuant to NRS 281A.670 to 281A.690, inclusive, or an ethics complaint filed or initiated pursuant to NRS 281A.700 to 281A.790, inclusive;

(p) Any information submitted to or requested by the Nevada Gaming Control Board pursuant to NRS 462.160 for the purposes of the licensing or registration of a charitable lottery or charitable game, provided that any information collected is confidential as provided in NRS 463.120;

(q) Any information requested by the Attorney General for an audit, examination or investigation conducted pursuant to NRS 82.536, provided that:

(1) Such information must only be used in connection with the audit, examination or investigation to which the request for information relates and for any proceedings or action resulting from such an audit, examination or investigation; and

(2) Except as otherwise provided in this paragraph, such information is subject to the requirements of this section, unless expressly required by statute or a court to be publicly disclosed;

(r) Any information requested under the authority to act and exercise the power of the Attorney General in the areas of consumer protection, including, without limitation, participating on behalf of the persons residing in this State pursuant to NRS 228.380 and any action to enforce the provisions of NRS 90.615, 597.120 to 597.260, inclusive, 597.8191 to 597.8198, inclusive, and chapters 598, 598A, 598C, 599B and 711 of NRS, provided that, except as otherwise provided in this paragraph, such information is subject to the requirements of this section, unless expressly required by statute or a court to be publicly disclosed; and

(s) The names of members of a labor organization and the amount of dues collected by a governmental entity that are provided to the labor organization for the purposes of collecting and reporting the remittance of dues to the labor organization from its members, in accordance with a valid authorization to withhold dues.

4. Any person who ~~believes~~ alleges that a governmental ~~agency~~ entity or an officer or employee of a governmental ~~agency~~ entity has violated the provisions of subsection 1 or 2 may bring a civil action in a court of competent jurisdiction. If the person prevails, the person is entitled to receive any or all of the following relief:

- (a) Injunctive relief as the court deems appropriate;
- (b) Costs incurred in bringing the action, including, without limitation, reasonable attorney's fees;
- (c) Except as otherwise provided in paragraph (d), damages of not less than \$2,500; and

(d) If the court determines that a governmental ~~agency~~ entity or officer or employee of a governmental ~~agency~~ entity intentionally violated the provisions of this section, damages of not less than \$7,500.

5. Any officer or employee of a governmental ~~agency~~ entity who knowingly and willfully violates the provisions of subsection 1 or 2 is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 90 days, or by a fine of not more than \$1,000, or by both fine and imprisonment.

6. For the purposes of this section, personal information that identifies a person as a donor, member or volunteer of a nonprofit organization:

(a) Includes, without limitation, any list, record, register, roster or other data of any kind that includes a donation, name, address or telephone number that directly or indirectly identifies a person as a donor of financial or nonfinancial support, member or volunteer of any nonprofit organization; and

(b) Does not include information that identifies a person as a staff member, employee or contractor of a nonprofit organization.

7. As used in this section:

(a) ~~“Governmental agency” means an officer, board, commission, department, division, bureau, district or any other unit of government of the State or a local government. Entity” has the meaning ascribed to it in NRS 239.005.~~

(b) “Labor organization” has the meaning ascribed to it in NRS 288.048.

(c) “Nonprofit organization” means:

(1) An organization which qualifies as tax exempt pursuant to section 501(c) of the Internal Revenue Code; and

(2) Any entity that has submitted an application with the Internal Revenue Service for recognition as a tax exempt entity pursuant to section 501(c) of the Internal Revenue Code. ~~and~~

~~(3) Any other organization recognized as a nonprofit organization pursuant to state law.~~

Sec. 3. Chapter 75 of NRS is hereby amended by adding thereto a new section to read as follows:

Pursuant to section 2 of this act, in carrying out the requirements of this title, the Secretary of State shall not collect or disclose any information that directly identifies a person as a donor of financial support to a nonprofit organization.

Sec. 4. NRS 82.536 is hereby amended to read as follows:

82.536 1. A corporation for public benefit and a corporation holding assets in charitable trust is subject at all times to examination by the Attorney General, on behalf of the State, to ascertain the condition of its affairs and to what extent, if at all, it fails to comply with trusts it has assumed or has departed from the purposes for which it is formed. In case of any such a failure or departure, the Attorney General may institute, in the name of the State, the proceeding necessary to correct the noncompliance or departure.

2. The Attorney General, or any person given the status of relator by the Attorney General, may bring an action to enjoin, correct, obtain damages for or otherwise to remedy a breach of a charitable trust or departure from the purposes for which it is formed.

3. Any information collected by the Attorney General pursuant to this section:

(a) Must only be used in connection with an audit, examination or investigation by the Attorney General and for any proceedings or action resulting from such an audit, examination or investigation; and

(b) Except as otherwise provided in this subsection and section 2 of this act, is subject to the requirements of section 2 of this act, unless expressly required by statute or a court to be publicly disclosed.

Assemblywoman Torres moved the adoption of the amendment.

Remarks by Assemblywoman Torres.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 267.

Bill read second time.

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

Amendment No. 184.

AN ACT relating to healthcare; revising provisions relating to the requirement that certain medical facilities conduct training of agents and employees in cultural competency; requiring the Office of Minority Health and Equity of the Department of Health and Human Services to establish, maintain and distribute a list of courses and programs relating to cultural competency that certain medical facilities are required to use to conduct training of certain agents and employees; increasing the number of hours of instruction relating

to cultural competency that certain ~~mental~~ health care professionals are required to complete; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the State Board of Health shall require, by regulation, a medical facility, facility for the dependent and certain other facilities to conduct training relating specifically to cultural competency for any agent or employee of the facility so that such an agent or employee may better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who are: (1) from various racial and ethnic backgrounds; (2) from various religious backgrounds; (3) persons with various sexual orientations and gender identities or expressions; (4) children and senior citizens; (5) persons with a mental or physical disability; and (6) part of any other population that such an agent or employee may need to better understand. Such training relating to cultural competency must be provided through a course or program that is approved by the Department of Health and Human Services. (NRS 449.103)

Section 1 of this bill ~~eliminates the requirement for the Board to adopt such regulations and provides instead that such facilities are required to conduct such training.~~ **: (1) requires the Board to set forth by regulation the frequency with which such a facility is required to conduct the training relating to cultural competency; and (2) creates an exception to the requirement to provide such training if an agent or employee of the facility has successfully completed a course or program of cultural competency as part of the continuing education requirements for the agent or employee to renew his or her professional license, registration or certificate, as applicable.** Section 1 further ~~[(1) provides that the courses and programs on cultural competency must be approved by]~~ **requires** the Office of Minority Health and Equity of the Department of Health and Human Services ~~[(1) and (2) requires the Office]~~ **to : (1) establish and maintain a list of [such] courses and programs on cultural competency that are approved for training relating to cultural competency; (2) make the most current list available on the Internet website of the Office; and (3) ensure that the list is distributed to each facility required to conduct the training on cultural competency. Finally, section 1: (1) authorizes a facility to apply to the Department to provide a course or program on cultural competency that is not already approved by the Department; and (2) requires the Department to report annually to certain joint interim committees of the Legislature the average length of time within which the Department approved a course or program of training in the immediately preceding year.**

Existing law requires, as a prerequisite for the renewal of a license, a ~~physician, physician assistant,~~ nurse, psychologist, marriage and family therapist, clinical professional counselor, social worker or behavior analyst to complete at least 2 hours of instruction relating to cultural competency and diversity, equity and inclusion. (NRS ~~[630.253,]~~ 632.343, ~~[633.471,]~~ 641.220,

641A.260, 641B.280, 641D.360) Existing law requires, as a prerequisite for the renewal of a license or certificate, an alcohol and drug counselor or problem gambling counselor to complete at least 1 hour of instruction relating to cultural competency and diversity, equity and inclusion. (NRS 641C.450) **Section 3 of this bill requires a nurse to complete at least 4 hours of such instruction.** Sections ~~[2-9]~~ **5-7** of this bill ~~[instead]~~ require ~~[such persons]~~ **a psychologist, marriage and family therapist, clinical professional counselor or social worker** to complete at least 6 hours of instruction relating to cultural competency and diversity, equity and inclusion. **Section 8 of this bill requires an alcohol and drug counselor or problem gambling counselor to complete at least 3 hours of instruction relating to cultural competency and diversity, equity and inclusion.** **Section 9 of this bill requires a behavior analyst to complete at least 6 hours of instruction relating to cultural competency and diversity, equity and inclusion.**

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

Section 1. NRS 449.103 is hereby amended to read as follows:

449.103 1. ~~[To]~~ **Except as otherwise provided in subsection 2, to** enable an agent or employee of a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed who provides care to a patient or resident of the facility to more effectively treat patients or care for residents, as applicable, ~~the Board shall, by regulation, require~~ such a facility ~~to~~ ~~[shall]~~ conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that such an agent or employee may better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who are:

- (a) From various racial and ethnic backgrounds;
- (b) From various religious backgrounds;
- (c) Persons with various sexual orientations and gender identities or expressions;
- (d) Children and senior citizens;
- (e) Persons with a mental or physical disability; and
- (f) Part of any other population that such an agent or employee may need to better understand, as determined by the Board.

↪ **The Board shall set forth by regulation the frequency with which a medical facility, facility for the dependent or other facility is required to provide such training relating to cultural competency.**

2. ~~[The]~~ **A medical facility, facility for the dependent or other facility is not required to provide training relating specifically to cultural competency to an agent or employee who has successfully completed a course or program in cultural competency as part of the continuing education requirements for**

the agent or employee to renew his or her professional license, registration or certificate, as applicable.

3. Except as otherwise provided in subsection 5, the training relating specifically to cultural competency conducted by a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed pursuant to subsection 1 must be provided through a course or program that is approved by the ~~Office of Minority Health and Equity of the~~ Department of Health and Human Services.

~~3.4~~ 4. The Office of Minority Health and Equity of the Department of Health and Human Services shall:

(a) Establish and maintain a list of the courses and programs that are approved for training relating to cultural competency pursuant to subsection ~~2, and~~ 3. The Office shall make the most current list available on the Internet website of the Office.

(b) Ensure that the list established and maintained pursuant to paragraph (a) is distributed to each medical facility, facility for the dependent or other facility which is required to conduct training relating specifically to cultural competency pursuant to subsection 1.

5. A medical facility, facility for the dependent or other facility which is required to conduct training specifically relating to cultural competency may apply to the Department of Health and Human Services to provide a course or program on cultural competency that is not approved by the Department pursuant to subsection 3. Any such request must be approved or denied by the Department not later than 10 business days after the receipt of the application.

6. On or before October 1 of each year, the Department of Health and Human Services shall report the average length of time within which the Department approved a course of program or training relating to cultural competency in the immediately preceding year pursuant to subsection 3 or 5, as applicable, to the Director of the Legislative Counsel Bureau for transmittal to the Joint Interim Standing Committee on Health and Human Services and the Joint Interim Standing Committee on Commerce and Labor.

Sec. 2. ~~NRS 630.253 is hereby amended to read as follows:~~

~~630.253 1. The Board shall, as a prerequisite for the:~~

~~(a) Renewal of a license as a physician assistant; or~~

~~(b) Biennial registration of the holder of a license to practice medicine;~~

~~require each holder to submit evidence of compliance with the requirements for continuing education as set forth in regulations adopted by the Board.~~

~~2. These requirements:~~

~~(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services;~~

~~(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of~~

~~terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:~~

- ~~— (1) An overview of acts of terrorism and weapons of mass destruction;~~
- ~~— (2) Personal protective equipment required for acts of terrorism;~~
- ~~— (3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;~~
- ~~— (4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and~~
- ~~— (5) An overview of the information available on, and the use of, the Health Alert Network.~~

~~— (e) Must provide for the completion by a holder of a license to practice medicine of a course of instruction within 2 years after initial licensure that provides at least 2 hours of instruction on evidence based suicide prevention and awareness as described in subsection 6.~~

~~— (d) Must provide for the completion of at least 2 hours of training in the screening, brief intervention and referral to treatment approach to substance use disorder within 2 years after initial licensure.~~

~~— (e) Must provide for the biennial completion by each psychiatrist and each physician assistant practicing under the supervision of a psychiatrist of one or more courses of instruction that provide at least [2] 6 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction:~~

~~— (1) May include the training provided pursuant to NRS 449.103, where applicable;~~

~~— (2) Must be based upon a range of research from diverse sources;~~

~~— (3) Must address persons of different cultural backgrounds, including, without limitation:~~

- ~~— (I) Persons from various gender, racial and ethnic backgrounds;~~
- ~~— (II) Persons from various religious backgrounds;~~
- ~~— (III) Lesbian, gay, bisexual, transgender and questioning persons;~~
- ~~— (IV) Children and senior citizens;~~
- ~~— (V) Veterans;~~
- ~~— (VI) Persons with a mental illness;~~
- ~~— (VII) Persons with an intellectual disability, developmental disability or physical disability; and~~
- ~~— (VIII) Persons who are part of any other population that a psychiatrist or a physician assistant practicing under the supervision of a psychiatrist may need to better understand, as determined by the Board.~~

~~— (f) Must allow the holder of a license to receive credit toward the total amount of continuing education required by the Board for the completion of a course of instruction relating to genetic counseling and genetic testing.~~

~~— 3. The Board may determine whether to include in a program of continuing education courses of instruction relating to the medical~~

consequences of an act of terrorism that involves the use of a weapon of mass destruction in addition to the course of instruction required by paragraph (b) of subsection 2.

~~4. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:~~

~~(a) The skills and knowledge that the licensee needs to address aging issues;~~

~~(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;~~

~~(c) The biological, behavioral, social and emotional aspects of the aging process; and~~

~~(d) The importance of maintenance of function and independence for older persons;~~

~~5. The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.~~

~~6. The Board shall require each holder of a license to practice medicine to receive as a portion of his or her continuing education at least 2 hours of instruction every 4 years on evidence-based suicide prevention and awareness, which may include, without limitation, instruction concerning:~~

~~(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;~~

~~(b) Approaches to engaging other professionals in suicide intervention; and~~

~~(c) The detection of suicidal thoughts and ideations and the prevention of suicide.~~

~~7. The Board shall encourage each holder of a license to practice medicine or as a physician assistant to receive, as a portion of his or her continuing education, training and education in the diagnosis of rare diseases, including, without limitation:~~

~~(a) Recognizing the symptoms of pediatric cancer; and~~

~~(b) Interpreting family history to determine whether such symptoms indicate a normal childhood illness or a condition that requires additional examination.~~

~~8. A holder of a license to practice medicine may not substitute the continuing education credits relating to suicide prevention and awareness required by this section for the purposes of satisfying an equivalent requirement for continuing education in ethics.~~

~~9. Except as otherwise provided in NRS 630.2535, a holder of a license to practice medicine may substitute not more than 2 hours of continuing education credits in pain management, care for persons with an addictive~~

~~disorder or the screening, brief intervention and referral to treatment approach to substance use disorder for the purposes of satisfying an equivalent requirement for continuing education in ethics.~~

~~10. As used in this section:~~

~~(a) “Act of terrorism” has the meaning ascribed to it in NRS 202.4415.~~

~~(b) “Biological agent” has the meaning ascribed to it in NRS 202.442.~~

~~(c) “Chemical agent” has the meaning ascribed to it in NRS 202.4425.~~

~~(d) “Radioactive agent” has the meaning ascribed to it in NRS 202.4437.~~

~~(e) “Weapon of mass destruction” has the meaning ascribed to it in NRS 202.4445.] (Deleted by amendment.)~~

Sec. 3. NRS 632.343 is hereby amended to read as follows:

632.343 1. The Board shall not renew any license issued under this chapter until the licensee has submitted proof satisfactory to the Board of completion, during the 2-year period before renewal of the license, of 30 hours in a program of continuing education approved by the Board in accordance with regulations adopted by the Board. Except as otherwise provided in subsection 3, the licensee is exempt from this provision for the first biennial period after graduation from:

- (a) An accredited school of professional nursing;
- (b) An accredited school of practical nursing;
- (c) An approved school of professional nursing in the process of obtaining accreditation; or
- (d) An approved school of practical nursing in the process of obtaining accreditation.

2. The Board shall review all courses offered to nurses for the completion of the requirement set forth in subsection 1. The Board may approve nursing and other courses which are directly related to the practice of nursing as well as others which bear a reasonable relationship to current developments in the field of nursing or any special area of practice in which a licensee engages. These may include academic studies, workshops, extension studies, home study and other courses.

3. The program of continuing education required by subsection 1 must include:

- (a) For a person licensed as an advanced practice registered nurse:
 - (1) A course of instruction to be completed within 2 years after initial licensure that provides at least 2 hours of instruction on suicide prevention and awareness as described in subsection 6.
 - (2) The ability to receive credit toward the total amount of continuing education required by subsection 1 for the completion of a course of instruction relating to genetic counseling and genetic testing.
- (b) For each person licensed pursuant to this chapter, a course of instruction, to be completed within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

- (1) An overview of acts of terrorism and weapons of mass destruction;
- (2) Personal protective equipment required for acts of terrorism;
- (3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;
- (4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and
- (5) An overview of the information available on, and the use of, the Health Alert Network.

(c) For each person licensed pursuant to this chapter, one or more courses of instruction that provide at least ~~12-67~~ 4 hours of instruction relating to cultural competency and diversity, equity and inclusion to be completed biennially. Such instruction:

- (1) May include the training provided pursuant to NRS 449.103, where applicable.
- (2) Must be based upon a range of research from diverse sources.
- (3) Must address persons of different cultural backgrounds, including, without limitation:
 - (I) Persons from various gender, racial and ethnic backgrounds;
 - (II) Persons from various religious backgrounds;
 - (III) Lesbian, gay, bisexual, transgender and questioning persons;
 - (IV) Children and senior citizens;
 - (V) Veterans;
 - (VI) Persons with a mental illness;
 - (VII) Persons with an intellectual disability, developmental disability or physical disability; and
 - (VIII) Persons who are part of any other population that a person licensed pursuant to this chapter may need to better understand, as determined by the Board.

(d) For a person licensed as an advanced practice registered nurse, at least 2 hours of training in the screening, brief intervention and referral to treatment approach to substance use disorder to be completed within 2 years after initial licensure.

4. The Board may determine whether to include in a program of continuing education courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction in addition to the course of instruction required by paragraph (b) of subsection 3.

5. The Board shall encourage each licensee who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

- (a) The skills and knowledge that the licensee needs to address aging issues;
- (b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

6. The Board shall require each person licensed as an advanced practice registered nurse to receive as a portion of his or her continuing education at least 2 hours of instruction every 4 years on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.

7. The Board shall encourage each person licensed as an advanced practice registered nurse to receive, as a portion of his or her continuing education, training and education in the diagnosis of rare diseases, including, without limitation:

(a) Recognizing the symptoms of pediatric cancer; and

(b) Interpreting family history to determine whether such symptoms indicate a normal childhood illness or a condition that requires additional examination.

8. As used in this section:

(a) “Act of terrorism” has the meaning ascribed to it in NRS 202.4415.

(b) “Biological agent” has the meaning ascribed to it in NRS 202.442.

(c) “Chemical agent” has the meaning ascribed to it in NRS 202.4425.

(d) “Radioactive agent” has the meaning ascribed to it in NRS 202.4437.

(e) “Weapon of mass destruction” has the meaning ascribed to it in NRS 202.4445.

Sec. 4. ~~NRS 633.471 is hereby amended to read as follows:~~

~~633.471 1. Except as otherwise provided in subsection 14 and NRS 633.491, every holder of a license, except a physician assistant, issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:~~

~~—(a) Applying for renewal on forms provided by the Board;~~

~~—(b) Paying the annual license renewal fee specified in this chapter;~~

~~—(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;~~

~~—(d) Subject to subsection 13, submitting evidence to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board in accordance with regulations adopted by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and~~

~~—(e) Submitting all information required to complete the renewal.~~

~~2. The Secretary of the Board shall notify each licensee of the requirements for renewal not less than 30 days before the date of renewal.~~

~~3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one third of the applicants for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant. Subject to subsection 13, upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.~~

~~4. The Board shall require each holder of a license to practice osteopathic medicine to complete a course of instruction within 2 years after initial licensure that provides at least 2 hours of instruction on evidence based suicide prevention and awareness as described in subsection 9.~~

~~5. The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.~~

~~6. The Board shall encourage each holder of a license to practice osteopathic medicine or as a physician assistant to receive, as a portion of his or her continuing education, training and education in the diagnosis of rare diseases, including, without limitation:~~

~~(a) Recognizing the symptoms of pediatric cancer; and~~

~~(b) Interpreting family history to determine whether such symptoms indicate a normal childhood illness or a condition that requires additional examination.~~

~~7. The Board shall require, as part of the continuing education requirements approved by the Board, the biennial completion by a holder of a license to practice osteopathic medicine of at least 2 hours of continuing education credits in ethics, pain management, care of persons with addictive disorders or the screening, brief intervention and referral to treatment approach to substance use disorder.~~

~~8. The continuing education requirements approved by the Board must allow the holder of a license as an osteopathic physician or physician assistant to receive credit toward the total amount of continuing education required by the Board for the completion of a course of instruction relating to genetic counseling and genetic testing.~~

~~9. The Board shall require each holder of a license to practice osteopathic medicine to receive as a portion of his or her continuing education at least 2 hours of instruction every 4 years on evidence based suicide prevention and awareness which may include, without limitation, instruction concerning:~~

~~— (a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;~~

~~— (b) Approaches to engaging other professionals in suicide intervention; and~~

~~— (c) The detection of suicidal thoughts and ideations and the prevention of suicide.~~

~~— 10. A holder of a license to practice osteopathic medicine may not substitute the continuing education credits relating to suicide prevention and awareness required by this section for the purposes of satisfying an equivalent requirement for continuing education in ethics.~~

~~— 11. The Board shall require each holder of a license to practice osteopathic medicine to complete at least 2 hours of training in the screening, brief intervention and referral to treatment approach to substance use disorder within 2 years after initial licensure.~~

~~— 12. The Board shall require each psychiatrist or a physician assistant practicing under the supervision of a psychiatrist to biennially complete one or more courses of instruction that provide at least [2] 6 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction:~~

~~— (a) May include the training provided pursuant to NRS 449.103, where applicable.~~

~~— (b) Must be based upon a range of research from diverse sources.~~

~~— (c) Must address persons of different cultural backgrounds, including, without limitation:~~

~~— (1) Persons from various gender, racial and ethnic backgrounds;~~

~~— (2) Persons from various religious backgrounds;~~

~~— (3) Lesbian, gay, bisexual, transgender and questioning persons;~~

~~— (4) Children and senior citizens;~~

~~— (5) Veterans;~~

~~— (6) Persons with a mental illness;~~

~~— (7) Persons with an intellectual disability, developmental disability or physical disability; and~~

~~— (8) Persons who are part of any other population that a psychiatrist or physician assistant practicing under the supervision of a psychiatrist may need to better understand, as determined by the Board.~~

~~— 13. The Board shall not require a physician assistant to receive or maintain certification by the National Commission on Certification of Physician Assistants, or its successor organization, or by any other nationally recognized organization for the accreditation of physician assistants to satisfy any continuing education requirement pursuant to paragraph (d) of subsection 1 and subsection 3.~~

~~— 14. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status. } (Deleted by amendment.)~~

Sec. 5. NRS 641.220 is hereby amended to read as follows:

641.220 1. To renew a license issued pursuant to this chapter, each person must, on or before the first day of January of each odd-numbered year:

- (a) Apply to the Board for renewal;
- (b) Pay the biennial fee for the renewal of a license;
- (c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board; and
- (d) Submit all information required to complete the renewal.

2. Upon renewing his or her license, a psychologist shall declare his or her areas of competence, as determined in accordance with NRS 641.112.

3. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with the requirements for continuing education adopted by the Board.

4. The requirements for continuing education adopted by the Board pursuant to subsection 3 must include, without limitation:

(a) A requirement that the holder of a license receive at least 2 hours of instruction on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate. The hours of instruction required by this paragraph must be completed within 2 years after initial licensure and at least every 4 years thereafter.

(b) A requirement that the holder of a license must biennially receive at least ~~{2}~~ 6 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction:

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that the holder of a license may need to better understand, as determined by the Board.

Sec. 6. NRS 641A.260 is hereby amended to read as follows:

641A.260 1. To renew a license to practice as a marriage and family therapist or clinical professional counselor issued pursuant to this chapter, each person must, on or before 10 business days after the date of expiration of his or her current license:

- (a) Apply to the Board for renewal;

- (b) Pay the fee for the biennial renewal of a license set by the Board;
- (c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board, unless the Board has granted a waiver pursuant to NRS 641A.265; and
- (d) Submit all information required to complete the renewal.

2. Except as otherwise provided in NRS 641A.265, the Board shall, as a prerequisite for the renewal of a license to practice as a marriage and family therapist or clinical professional counselor, require each holder to comply with the requirements for continuing education adopted by the Board, which must include, without limitation:

(a) A requirement that the holder receive at least 2 hours of instruction on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.

(b) A requirement that the holder receive at least ~~2~~ 6 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction:

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that a marriage and family therapist or clinical professional counselor may need to better understand, as determined by the Board.

Sec. 7. NRS 641B.280 is hereby amended to read as follows:

641B.280 1. Every holder of a license issued pursuant to this chapter may renew his or her license annually by:

- (a) Applying to the Board for renewal;
- (b) Paying the annual renewal fee set by the Board;
- (c) Except as otherwise provided in NRS 641B.295, submitting evidence to the Board of completion of the required continuing education as set forth in regulations adopted by the Board; and
- (d) Submitting all information required to complete the renewal.

2. Except as otherwise provided in NRS 641B.295, the Board shall, as a prerequisite for the renewal of a license, require the holder to comply with the

requirements for continuing education adopted by the Board, which must include, without limitation:

(a) A requirement that every 2 years the holder receive at least 2 hours of instruction on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.

(b) A requirement that every 2 years the holder receive at least ~~2~~ 6 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction:

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that the holder of a license issued pursuant to this chapter may need to better understand, as determined by the Board.

Sec. 8. NRS 641C.450 is hereby amended to read as follows:

641C.450 Except as otherwise provided in NRS 641C.310, 641C.320, 641C.440 and 641C.530, a person may renew his or her license or certificate by submitting to the Board:

1. An application for the renewal of the license or certificate.

2. The fee for the renewal of a license or certificate prescribed in NRS 641C.470.

3. Evidence of completion of the continuing education required by the Board, which must include, without limitation:

(a) A requirement that the applicant receive at least 1 hour of instruction on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate for each year of the term of the applicant's licensure or certification.

(b) A requirement that the applicant receive at least ~~1 hour~~ **3 hours** of instruction relating to cultural competency and diversity, equity and inclusion for each year of the term of the applicant's licensure or certification. Such instruction:

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that the holder of a license or certificate may need to better understand, as determined by the Board.

4. If the applicant is a certified intern, the name of the licensed or certified counselor who supervises the applicant.

5. All information required to complete the renewal.

Sec. 9. NRS 641D.360 is hereby amended to read as follows:

641D.360 1. To renew a license as a behavior analyst or assistant behavior analyst or registration as a registered behavior technician, each person must, on or before the first day of January of each odd-numbered year:

(a) Apply to the Board for renewal;

(b) Pay the biennial fee for the renewal of a license or registration;

(c) Submit evidence to the Board:

(1) Of completion of the requirements for continuing education as set forth in regulations adopted by the Board, if applicable; and

(2) That the person's certification or registration, as applicable, by the Behavior Analyst Certification Board, Inc., or its successor organization, remains valid and the holder remains in good standing; and

(d) Submit all information required to complete the renewal.

2. In addition to the requirements of subsection 1, to renew registration as a registered behavior technician for the third time and every third renewal thereafter, a person must submit to an investigation of his or her criminal history in the manner prescribed in paragraph (b) of subsection 1 of NRS 641D.300.

3. The Board shall adopt regulations that require, as a prerequisite for the renewal of a license as a behavior analyst or assistant behavior analyst, each holder to complete continuing education, which must:

(a) Be consistent with nationally recognized standards for the continuing education of behavior analysts or assistant behavior analysts, as applicable.

(b) Include, without limitation, a requirement that the holder of a license receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.

(c) Include, without limitation, a requirement that the holder of a license as a behavior analyst receive at least ~~24~~ 6 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction:

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that a behavior analyst may need to better understand, as determined by the Board.

4. The Board shall not adopt regulations requiring a registered behavior technician to receive continuing education.

Sec. 9.5. 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. 10. 1. This section becomes effective upon passage and approval.

2. Sections 1 to ~~9.4~~ 9.5, inclusive, of this act become effective:

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

(b) On January 1, 2024, for all other purposes.

Assemblywoman Marzola moved the adoption of the amendment.

Remarks by Assemblywoman Marzola.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 272.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 153.

AN ACT relating to mail theft; establishing provisions relating to mail theft; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law describes certain actions which constitute theft. (NRS 205.0832) **Section 1** of this bill provides that a person commits the crime of mail theft if the person: (1) knowingly, willfully and with the intent to deprive, injure, damage or defraud another, takes, destroys, hides or embezzles mail or

obtains any mail by fraud or deception; (2) buys, receives, conceals or possesses mail and knows or reasonably should know that the mail was unlawfully taken or obtained; (3) **buys, receives, conceals or possesses personal identifying information and knows or reasonably should know that the personal identifying information was unlawfully taken or obtained from mail;** (4) buys, receives, conceals or possesses a United States Postal Service key that provides access to certain mail receptacles, or a counterfeit device or key designed to provide access to the lock mechanisms of such mail receptacles; or ~~[(4)]~~ **(5)** knowingly, willfully and with the intent to steal the mail inside, damages, breaks open, tears down, takes or destroys any mail receptacle. **Section 1** also provides that a person who commits the crime of mail theft is guilty of ~~[(1) if the mail has no monetary value and does not include the personal identifying information of any person, a gross misdemeanor; (2) if the mail has monetary value or contains the personal identifying information of not more than nine persons,]~~ a category D felony ~~[(3) if the mail contains the personal identifying information of 10 or more persons, a category C felony.]~~, **which is punishable by a term of imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years and a fine of not more than \$5,000.** **Section 1** also requires the court to order a person who commits the offense of mail theft to pay restitution.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person commits the crime of mail theft if the person:

(a) Knowingly, willfully and with the intent to deprive, injure, damage or defraud another:

(1) Takes, destroys, hides or embezzles mail; or

(2) Obtains any mail by fraud or deception;

(b) Buys, receives, conceals or possesses:

(1) Mail and knows or reasonably should know that the mail was unlawfully taken or obtained;

(2) Personal identifying information and knows or reasonably should know that the personal identifying information was unlawfully taken or obtained from mail in violation of this subsection;

(3) Any key suited to any lock adopted by the United States Postal Service that provides access to any mail receptacle in any neighborhood or apartment panel used for the purpose of centralized mail; or

~~[(3)]~~ **(4) A counterfeit device or key designed to provide access to a lock described in subparagraph ~~[(2)]~~ (3); or**

(c) Knowingly, willfully and with the intent to steal any mail inside, damages, breaks open, tears down, takes or destroys any mail receptacle.

2. A person who violates any provision of subsection 1 is guilty of ~~[(2)]~~

~~(a) If the mail has no monetary value and does not include the personal identifying information of any person, a gross misdemeanor;~~

~~(b) If the mail has monetary value or contains the personal identifying information of not more than nine persons, a category D felony and shall be punished as provided in NRS 193.130. ~~For~~~~

~~(c) If the mail contains the personal identifying information of 10 or more persons, a category C felony and shall be punished as provided in NRS 193.130.~~

~~3. In addition to any other penalty, the court shall order the person to pay restitution.~~

~~4. 3.~~ As used in this section:

(a) “Mail” means any letter, postal card, parcel, package, bag or other material, along with its contents, that:

(1) Has postage affixed by the postal customer or postal service;

(2) Has been accepted for delivery by the postal service;

(3) The postal customer leaves for collection by the postal service; or

(4) The postal service delivers to the postal customer.

(b) “Mail receptacle” means a mailbox, post office box, rural box, letter box, lock drawer or any place or area intended or used by postal customers or a postal service for the collection, deposit or delivery of mail.

(c) “Personal identifying information” has the meaning ascribed to it in NRS 205.4617.

(d) “Postal service” means the United States Postal Service or a private common mail carrier.

Sec. 2. This act becomes effective on July 1, 2023.

Assemblywoman Brittney Miller moved the adoption of the amendment.

Remarks by Assemblywoman Brittney Miller.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 301.

Bill read second time.

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

Amendment No. 180.

AN ACT relating to public employees; revising the definition of “police officer” to include certain school police officers, juvenile probation officers, ~~and~~ bailiffs and deputy marshals of municipal courts and marshals and deputy marshals of cities or towns for the purposes of certain benefits and exemptions; specifying that the use of certain designations by the Department of Public Safety or a division, officer or employee of the Department does not exclude certain employees of the Department from the definition of “police officer” for the purposes of certain benefits and exemptions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines “police officer” to include various law enforcement officers of this State for the purposes of certain provisions relating to eligibility for benefits under the Nevada Occupational Diseases Act. (NRS 617.135) Among the law enforcement officers included in the definition of “police officer” are certain specified employees of the Department of Public Safety. (NRS 617.135) Existing law authorizes the Director of the Department of Public Safety to authorize: (1) the Department to use certain designations to identify itself; and (2) the divisions of the Department and the officers and employees of the Department to use certain designations to identify themselves. (NRS 480.150) This bill provides that the use of such a designation does not exclude from the definition of “police officer” any employee of the Department of Public Safety included in the definition of “police officer” under existing law.

This bill also expands the definition of “police officer” to include a: (1) school police officer employed or appointed by the board of trustees of a school district; (2) juvenile probation officer; ~~and~~ (3) bailiff or deputy marshal of a municipal court ~~;~~ **and (4) marshal or deputy marshal of a city or town.** Furthermore, because various other provisions of the Nevada Revised Statutes reference “police officer” as that term is defined in the Act, this bill makes applicable to school police officers employed or appointed by the board of trustees of a school district, juvenile probation officers, ~~and~~ bailiffs and deputy marshals of municipal courts ~~;~~ **and marshals and deputy marshals of cities or towns:** (1) industrial insurance coverage for police officers; (2) exemption from service as grand or trial jurors; (3) compensation for police officers with temporary disabilities; and (4) eligibility for certain programs of group insurance or other medical or hospital service for the surviving spouse or any surviving child of a police officer or firefighter. (NRS 6.020, 281.153, 287.021, 287.0477; chapters 616A-616D of NRS)

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

Section 1. NRS 617.135 is hereby amended to read as follows:

617.135 **1.** “Police officer” includes:

~~{1-}~~ **(a)** A sheriff, deputy sheriff, officer of a metropolitan police department or city police officer;

~~{2-}~~ **(b)** A chief, inspector, supervisor, commercial officer or trooper of the Nevada Highway Patrol Division of the Department of Public Safety;

~~{3-}~~ **(c)** A chief, investigator or agent of the Investigation Division of the Department of Public Safety;

~~{4-}~~ **(d)** A chief, supervisor, investigator or training officer of the Training Division of the Department of Public Safety;

~~{5-}~~ **(e)** A chief or investigator of an office of the Department of Public Safety that conducts internal investigations of employees of the Department of

Public Safety or investigates other issues relating to the professional responsibility of those employees;

~~{6.}~~ (f) A chief or investigator of the Department of Public Safety whose duties include, without limitation:

~~{(a)}~~ (1) The execution, administration or enforcement of the provisions of chapter 179A of NRS; and

~~{(b)}~~ (2) The provision of technology support services to the Director and the divisions of the Department of Public Safety;

~~{7.}~~ (g) An officer or investigator of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles;

~~{8.}~~ (h) An investigator of the Division of Compliance Enforcement of the Department of Motor Vehicles;

~~{9.}~~ (i) *A school police officer employed or appointed by the board of trustees of a school district pursuant to NRS 391.281;*

(j) A member of the police department of the Nevada System of Higher Education;

~~{10.}~~ (k) A:

~~{(a)}~~ (1) Uniformed employee of; or

~~{(b)}~~ (2) Forensic specialist employed by,

→ the Department of Corrections whose position requires regular and frequent contact with the offenders imprisoned and subjects the employee to recall in emergencies;

~~{11.}~~ (l) *A juvenile probation officer;*

(m) A parole and probation officer of the Division of Parole and Probation of the Department of Public Safety;

~~{12.}~~ (n) A forensic specialist or correctional officer employed by the Division of Public and Behavioral Health of the Department of Health and Human Services at facilities for mentally disordered offenders;

~~{13.}~~ (o) The State Fire Marshal and his or her assistant and deputies;

~~{14.}~~ (p) A game warden of the Department of Wildlife who has the powers of a peace officer pursuant to NRS 289.280;

~~{15.}~~ (q) A ranger or employee of the Division of State Parks of the State Department of Conservation and Natural Resources who has the powers of a peace officer pursuant to NRS 289.260;

~~{16.}~~ (r) A bailiff or a deputy marshal of the district court, *municipal court* or justice court whose duties require him or her to carry a weapon and to make arrests; ~~and~~

~~{17.}~~ (s) An agricultural police officer appointed by the Director of the State Department of Agriculture pursuant to NRS 561.225 who has the powers of a peace officer pursuant to NRS 289.290. ~~{18.}~~; and

(t) *A marshal or deputy marshal of a city or town.*

2. *The use of any designation by the Department of Public Safety, a division of the Department or an officer or employee of the Department pursuant to subsection 3 of NRS 480.150 does not exclude any person*

described in paragraphs (b) to (f), inclusive, and (m) of subsection 1 from the definition of “police officer” set forth in subsection 1.

Sec. 2. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 3. This act becomes effective on July 1, 2023.

Assemblywoman Marzola moved the adoption of the amendment.

Remarks by Assemblywoman Marzola.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 303.

Bill read second time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 215.

AN ACT relating to motor vehicles; revising provisions relating to the towing of a motor vehicle when a tow is requested by certain persons; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that if the towing of a motor vehicle is requested by a person other than the owner, an agent of the owner, a law enforcement officer or other person employed to enforce the laws, ordinances and codes of a local government, the operator of the tow car shall not charge any fee or cost for the storage of the motor vehicle until at least 48 hours after the motor vehicle arrives and is registered at the place of storage. (NRS 706.4477) This bill ~~provides instead that an operator is prohibited from charging any fee or cost for the towing of the motor vehicle, including, without limitation, any fee or cost for the removal, impoundment or storage of the motor vehicle, until at least 48 hours after the motor vehicle arrives and is registered at the place of storage.~~ **removes this provision.** This bill also provides that an operator who tows a vehicle in violation of the requirements of this bill or charges a fee or cost in violation of this bill may be subject to certain penalties and the owners of the vehicle may bring an action against the operator to recover costs.

Existing law provides that an owner of real property may not have a vehicle towed solely because the registration of the vehicle is expired. (NRS 706.4477) This bill: (1) prohibits an operator from charging any fee or cost for the towing of a vehicle solely because the registration of the vehicle is expired; and (2) provides that the towing of such a vehicle by an operator is a violation subject to the penalties provided for in this bill.

Existing law provides that, in certain situations, a registered owner of a motor vehicle that is towed is responsible for the cost of removal and storage of the motor vehicle, but if, for reasons outside of the owner’s control, he or she is incapable of paying the normal rate charged for the removal and storage of the towed motor vehicle, the owner may pay a hardship tariff in accordance with regulations adopted by the Nevada Transportation Authority. (NRS

706.4477) This bill ~~sets forth certain reasons outside of the owner's control for which he or she is determined to be incapable of paying the normal rate charged for the removal and storage of the towed motor vehicle.]~~ **revises the situations in which an owner may pay a hardship tariff, but limits an owner from paying the hardship tariff more than once per calendar year.**

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

Section 1. NRS 706.4477 is hereby amended to read as follows:

706.4477 1. If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer or other person who is employed to enforce the laws, ordinances and codes of a local government:

(a) The person requesting the towing must be the owner of the real property from which the vehicle is towed or an authorized agent of the owner of the real property and must sign a specific request for the towing. Except as otherwise provided in subsection 2, for the purposes of this section, the operator is not an authorized agent of the owner of the real property.

(b) The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

(c) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

(d) The operator may be directed to terminate the towing by a law enforcement officer.

2. If, pursuant to subsection 1, the owner of the real property or authorized agent of the owner of the real property requests that a vehicle be towed from a residential complex at which the vehicle is located, the owner of the real property or authorized agent of the owner, which may be the tow operator if the tow operator has entered into a contract for that purpose with the owner of the real property:

(a) Must:

(1) Meet the requirements of subsection 1.

(2) Except as otherwise provided in this subparagraph, if the vehicle is being towed pursuant to subparagraph (1) or (2) of paragraph (b), notify the owner or operator of the vehicle of the tow not less than 48 hours before the tow by affixing to the vehicle a sticker which provides the date and time after which the vehicle will be towed. The provisions of this subparagraph do not apply and the vehicle may be immediately towed if it is a vehicle for which a notice was previously affixed:

(I) For the same or a similar reason within the same residential complex.

(II) Three or more times during the immediately preceding 6 months within the same residential complex for any reason, regardless of whether the vehicle was subsequently towed.

(b) May only have a vehicle towed:

- (1) Because of a parking violation;
- (2) If the vehicle is not registered pursuant to this chapter or chapter 482 of NRS or in any other state; or
- (3) If the vehicle is:
 - (I) Blocking a fire hydrant, fire lane or parking space designated for the handicapped; or
 - (II) Posing an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of the residential complex, which may include, without limitation, if the vehicle is parked in a space that is clearly marked for a specific resident or the use of a specific unit in the residential complex.

(c) May not have a vehicle towed solely because the registration of the vehicle is expired. **An operator may not charge any fee or cost for towing a vehicle in violation of this paragraph. The towing of a vehicle solely because the registration of the vehicle is expired is a violation of this section, subject to the provisions of the regulations adopted pursuant to subsection 8.**

3. If towing is requested by a county or city pursuant to NRS 244.3605 or 268.4122, as applicable:

- (a) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.
- (b) The operator may be directed to terminate the towing by a law enforcement officer.

4. The owner of a motor vehicle towed pursuant to the provisions of subsection 1, 2 or 3:

- (a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and
- (b) Subject to the provisions of subsection ~~{7}~~ **6**, is responsible for the cost of removal and storage of the motor vehicle.

5. The owner may rebut the presumption in subsection 4 by showing that:

- (a) The owner transferred the owner's interest in the motor vehicle:
 - (1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or
 - (2) As indicated by a bill of sale for the vehicle that is signed by the owner; or
- (b) The vehicle is stolen, if the owner submits evidence that, before the discovery of the vehicle, the owner filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.

6. ~~[An operator shall not charge any fee or cost for the storage towing of the motor vehicle pursuant to subsection 1, including, without limitation, any fee or cost for the removal, impoundment or storage of the motor vehicle, until at least 48 hours after the motor vehicle arrives and is registered at the place of storage. If the motor vehicle arrives at the place of storage after the regular business hours of the place of storage, the 48-hour period begins when the regular business hours of the place of storage next begin.]~~

~~7. The~~ ***Except as otherwise provided in subsection 7, the*** owner of the vehicle shall pay a hardship tariff for the cost of removal and storage of the motor vehicle if:

(a) A vehicle has been towed pursuant to subparagraph ~~(1) or~~ (2) of paragraph (b) of subsection 2 ~~[or sub-subparagraph (II) of subparagraph (3) of paragraph (b) of subsection 2; and~~

(b) ~~The owner of the vehicle does not provide proof that the vehicle was registered pursuant to this chapter or chapter 482 of NRS or in any other state at the time the vehicle was towed; and,~~

~~(c)~~ The owner, for reasons outside of his or her control, as determined by the regulations adopted pursuant to this section, is incapable of paying the normal rate charged for the removal and storage of the motor vehicle.

~~[(d) The owner is incapable of paying the normal rate charged for reasons outside of his or her control if the owner provides evidence that he or she:~~

~~(1) Is receiving benefits provided by a federal or state program of public assistance;~~

~~(2) Has a household net income which is equal to or less than 200 percent of the federally designated level signifying poverty as provided in the most recent federal poverty guidelines published in the Federal Register by the United States Department of Health and Human Services;~~

~~(3) Resides in public housing, as that term is defined in NRS 315.021;~~

~~(4) Has expenses for the necessities of life that exceeds his or her income; or~~

~~(5) Any other reason established by the Authority in accordance with the regulations adopted pursuant to subsection 8.]~~

7. The owner of a motor vehicle is only entitled to pay a hardship tariff pursuant to subsection 6 once per calendar year.

8. The Authority shall adopt regulations to carry out the provisions of this section, including, without limitation, establishing a range of hardship tariffs a person may pay pursuant to this section ~~[subsection 7]~~ and setting forth what qualifies as a reason ~~[any additional reasons]~~ that is ~~[are]~~ outside of the control of the owner.

9. If a motor vehicle is towed in violation of the provisions of this section or an operator charges any fee or cost for the towing of a motor vehicle in violation of this section:

(a) *The operator may be subject to a penalty in accordance with the provisions of NRS 706.756 to 706.781, inclusive; and*

(b) *The owner of the vehicle may bring an action against the operator to recover any costs incurred by the person as a result of the violation, including, without limitation, any loss of income.*

~~[8.]~~ ***10.*** As used in this section:

(a) “Parking violation” means a violation of any:

(1) State or local law or ordinance governing parking; or

(2) Parking rule promulgated by the owner or manager of the residential complex that applies to vehicles on the property of the residential complex.

(b) ~~["Provide proof" includes, without limitation, providing current registration documents in a physical format or in an electronic format as set forth in NRS 482.255 that predate the date on which the vehicle was towed.~~

~~(c)]~~ "Residential complex" means a group of apartments, condominiums or townhomes intended for use as residential units and for which a common parking area is provided, regardless of whether each resident or unit has been assigned a specific parking space in the common parking area.

Sec. 2. This act becomes effective on July 1, 2023.

Assemblyman Watts moved the adoption of the amendment.

Remarks by Assemblyman Watts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 315.

Bill read second time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 214.

AN ACT relating to energy; requiring the Director of the Office of Energy to coordinate with certain entities to recommend best practices for issuing a permit for geothermal energy; ~~temporarily creating the Geothermal Energy Systems Demonstration Program; prohibiting certain restrictions on the use of a system for obtaining geothermal energy by the owners of real property;~~ requiring the Office of Energy to conduct an interim study relating to geothermal ~~energy;~~ **resources;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law creates various renewable energy programs, including the Solar Energy Systems Incentive Program, Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (Chapter 701B of NRS) Sections 3-18 of this bill establish provisions for a similar program for geothermal energy to provide incentives to certain participants and utilities for energy generated by various geothermal energy systems.~~

~~Sections 4-10 of this bill define certain terms relating to the Geothermal Energy Systems Demonstration Program.~~

~~Section 11 of this bill: (1) creates the Geothermal Energy Systems Demonstration Program; (2) requires the Public Utilities Commission of Nevada to establish categories for participation in the Program; and (3) provides certain eligibility requirements to participate in the Program. Section 12 of this bill requires the Commission to adopt certain regulations to carry out the Program. Section 13 of this bill: (1) requires each utility to carry out and administer the Program within its service area; and (2) authorizes a utility to~~

~~recover its reasonable and prudent costs that are associated with carrying out and administering the Program. Section 14 of this bill requires each utility to file with the Commission for review its annual plan for carrying out and administering the Program.~~

~~Section 15 of this bill: (1) requires an applicant who wishes to participate in the Program to submit an application to a utility; (2) authorizes the utility to approve a geothermal energy system proposed by the applicant; and (3) upon completion of the installation and energizing of the geothermal energy system, requires the utility to issue an incentive payment to the participant.~~

~~Section 16 of this bill provides that the installation of a geothermal energy system on property owned or occupied by a public body is a public work.~~

~~Section 17 of this bill requires the Commission to issue portfolio energy credits after a participant installs a geothermal energy system included in the Program. Section 18 of this bill requires a geothermal energy system to meet the requirements for participating in net metering to be eligible for an incentive through the Program.~~

~~Existing law provides that the Commission may authorize the payment of an incentive to the Solar Energy Systems Incentive Program, Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program if the payment of the incentive would not cause the total amount of incentives paid by all utilities in this State for the installation of certain renewable energy systems to exceed \$295,270,000 for the period beginning on July 1, 2010, and ending on December 31, 2025. Existing law further authorizes a utility to file a combined annual plan which meets the requirements for the annual plan required for the Solar Energy Systems Incentive Program, Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.005) Section 20 of this bill authorizes: (1) the Commission to pay an incentive for the Geothermal Energy Systems Demonstration Program; and (2) a utility to include an annual plan for the Geothermal Energy Systems Demonstration Program in its combined annual plan. Section 19 of this bill makes a conforming change to certain definitions to include a geothermal energy system.~~

~~Existing law requires the governing body of each local government and the State Public Works Board to develop a plan to retrofit public buildings, facilities and structures, which must include a list of specific projects and whether the project has qualified for participation in certain renewable energy programs. (NRS 338.1908, 701B.924) Sections 21 and 25 of this bill make conforming changes to include the Geothermal Energy Systems Demonstration Program in these provisions.~~

~~Existing law requires certain eligible customers of a provider of new electric resources to pay certain costs incurred by an electric utility to implement provisions governing various renewable energy programs. (NRS 704B.310) Section 22 of this bill makes a conforming change to include the Geothermal Energy Systems Demonstration Program in this provision.~~

~~Section 28 of this bill expires the Geothermal Energy Systems Demonstration Program on December 31, 2027.~~

Existing law requires the Director of the Office of Energy to perform certain duties relating to energy resources and energy conservation. (NRS 701.180)

Section 1 of this bill requires the Director to coordinate with local governments and representatives of the geothermal energy industry to recommend best practices for issuing a permit for the use or development of geothermal energy to streamline the process for such permits.

~~[Existing law sets forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents which prohibit or unreasonably restrict or have the effect of prohibiting or unreasonably restricting an owner of property from using a system for obtaining solar energy on his or her property. (NRS 111.239, 278.0208). Sections 23 and 24 of this bill prohibit such covenants, restrictions or conditions from prohibiting or unreasonably restricting or having the effect of prohibiting or unreasonably restricting an owner of property from using a system for obtaining geothermal energy on his or her property.]~~

Section 27 of this bill requires the Office of Energy to conduct a study during the 2023-2024 interim concerning the ~~(use of)~~ **development of** geothermal ~~(energy)~~ **resources** in this State and submit a report of its findings to the Director of the Legislative Counsel Bureau for transmittal to the 83rd Session of the Legislature.

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

Section 1. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 and the Wind Energy Systems Demonstration Program created pursuant to 701B.580, including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the Programs; and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Programs; and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;
(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Director determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. Cooperate with the Department of Wildlife in carrying out the provisions of NRS 701.600 to 701.640, inclusive.

8. Upon request by a developer of an energy development project or a local government in a county in which an energy development project is proposed to be located, coordinate discussions, not otherwise required by any existing regulatory agency, with interested parties concerning any potential effect of the energy development project.

9. *Coordinate with local governments and representatives of the geothermal energy industry to recommend best practices for issuing a permit for the use or development of geothermal energy to streamline the process for such permits ~~which must, without limitation, take into account potential environmental impacts.~~*

10. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 2. ~~[Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 18, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 3. ~~[As used in sections 3 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 4. ~~[“Applicant” means a person who is applying to participate in the Geothermal Demonstration Program.] (Deleted by amendment.)~~

Sec. 5. ~~[“Commission” means the Public Utilities Commission of Nevada.] (Deleted by amendment.)~~

Sec. 6. ~~[“Participant” means a person who has been selected by a utility to participate in the Geothermal Demonstration Program.] (Deleted by amendment.)~~

Sec. 7. ~~[“Person” includes, without limitation, a governmental entity.] (Deleted by amendment.)~~

Sec. 8. ~~[“Utility” means a public utility that supplies electricity in this State.] (Deleted by amendment.)~~

Sec. 9. ~~[“Geothermal Demonstration Program” or “Program” means the Geothermal Energy Systems Demonstration Program created by section 11 of this act.] (Deleted by amendment.)~~

Sec. 10. ~~[“Geothermal energy system” means a facility or energy system for the generation of electricity that uses geothermal energy to generate electricity.] (Deleted by amendment.)~~

Sec. 11. ~~[1. The Geothermal Energy Systems Demonstration Program is hereby created.~~

~~2. The Commission shall establish categories for participation in the Program.~~

~~3. To be eligible to participate in the Program, a person must:~~

~~(a) Meet the requirements established by the Commission pursuant to section 12 of this act; and~~

~~(b) When installing the geothermal energy system, use an installer who has been issued a classification C 2 license with the appropriate subclassification by the State Contractors’ Board pursuant to the regulations adopted by the Board.] (Deleted by amendment.)~~

Sec. 12. ~~[The Commission shall adopt regulations necessary to carry out the provisions of the Geothermal Demonstration Program, including, without limitation, regulations that establish:~~

- ~~1. The capacity goals for the Program.~~
- ~~2. A system of incentives that are based on rebates that decline as the installed cost of geothermal energy systems declines and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require. The system of incentives must provide:~~
 - ~~(a) Incentives for geothermal energy systems with a nameplate capacity of not more than 500 kilowatts;~~
 - ~~(b) That the amount of the incentive for a participant must be paid over time and be based on the performance of the geothermal energy system and the amount of electricity generated by the geothermal energy system; and~~
 - ~~(c) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:~~
 - ~~(1) The amount of the incentive the participant will receive from the utility;~~
 - ~~(2) The period in which the participant will receive an incentive from the utility, which must not exceed 4 years;~~
 - ~~(3) That the payments of an incentive to the participant must not be made more frequently than quarterly; and~~
 - ~~(4) That a utility is not required to issue any new incentive on or after January 1, 2027, or make an incentive payment after December 31, 2027.~~
- ~~3. Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average installed cost of the geothermal energy system, the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by customers of the utility.~~
- ~~4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.~~
- ~~5. The period for accepting applications, which must include a period during which a utility must accept additional applicants if a previously approved applicant fails to install and energize a geothermal energy system within the time allowed by section 15 of this act.~~
- ~~6. The total incentive paid to a participant in the Program, which must not exceed 50 percent of the total installed cost of the geothermal energy system of the participant.~~
- ~~7. A requirement that an authorized representative of any public entity participating in the Program, including, without limitation, participation through a third-party ownership structure, must provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the geothermal energy system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.~~
- ~~8. A process pursuant to which the utility shall transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the~~

~~Commission which includes any redacted personal identifying information of a customer.] (Deleted by amendment.)~~

~~Sec. 13. [1. Each utility shall carry out and administer the Geothermal Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 14 of this act.~~

~~2. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.] (Deleted by amendment.)~~

~~Sec. 14. [1. On or before February 1, 2024, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Geothermal Demonstration Program within its service area.~~

~~2. On or before July 1, 2024, and on or before July 1 of each year thereafter, the Commission shall:~~

~~(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and~~

~~(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.] (Deleted by amendment.)~~

~~Sec. 15. [1. An applicant who wishes to participate in the Geothermal Demonstration Program must submit an application to a utility.~~

~~2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.~~

~~3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.~~

~~4. After the utility selects an applicant to participate in the Program, the utility may approve the geothermal energy system proposed by the applicant. Upon the utility's approval of the geothermal energy system:~~

~~(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the geothermal energy system is eligible; and~~

~~(b) The applicant may install and energize the geothermal energy system.~~

~~5. Upon the completion of the installation and energizing of the geothermal energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the installed cost of the project and a calculation of the expected system output.~~

~~6. Upon receipt of the incentive claim form and verification that the geothermal energy system is properly connected, the utility shall issue an incentive payment to the participant.~~

~~7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Geothermal Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the geothermal energy system within 12 months after the date on which the applicant is selected for participation in the Program.] (Deleted by amendment.)~~

Sec. 16. ~~[1. The installation of a geothermal energy system on property owned or occupied by a public body pursuant to sections 3 to 18, inclusive, of this act shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the geothermal energy system is financed in whole or in part by public money. The public body, the utility, any contractor who is awarded a contract or entered into an agreement to perform the installation and any subcontractor who performs any portion of the installation shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the public body had undertaken the installation or had awarded the contract.~~

~~2. The amount of any incentive issued by a utility relating to the installation of a geothermal energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from the requirements of NRS 338.013 to 338.090, inclusive.~~

~~3. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.] (Deleted by amendment.)~~

Sec. 17. ~~[1. After a participant installs a geothermal energy system included in the Geothermal Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 and 704.78213 equal to the actual or estimated kilowatt-hour production of the geothermal energy system.~~

~~2. All portfolio energy credits issued for a geothermal energy system installed pursuant to the Geothermal Demonstration Program must be assigned to and become the property of the utility administering the Program.] (Deleted by amendment.)~~

Sec. 18. ~~[To be eligible for an incentive through the Geothermal Demonstration Program, a geothermal energy system must meet the requirements for participation in net metering pursuant to the provisions of NRS 704.766 to 704.776, inclusive.] (Deleted by amendment.)~~

Sec. 19. ~~[NRS 701B.003 is hereby amended to read as follows:~~

~~701B.003 1. As used in this chapter, unless the context otherwise requires, "installed cost" means the actual, documented cost of tangible materials and labor for the installation of a solar energy system, distributed~~

generation system, ~~geothermal energy system~~, wind energy system or waterpower energy system.

~~2. As used in this section:~~

~~(a) “Distributed generation system” has the meaning ascribed to it in NRS 701B.055.~~

~~(b) “Geothermal energy system” has the meaning ascribed to it in section 10 of this act.~~

~~(c) “Solar energy system” has the meaning ascribed to it in NRS 701B.150.~~

~~[(c)] (d) “Waterpower energy system” has the meaning ascribed to it in NRS 701B.800.~~

~~[(d)] (e) “Wind energy system” has the meaning ascribed to it in NRS 701B.560.] (Deleted by amendment.)~~

Sec. 20. [NRS 701B.005 is hereby amended to read as follows:

~~701B.005 1. For the purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, and subject to the limitations prescribed by subsections 2 and 3, the Public Utilities Commission of Nevada shall set incentive levels and schedules, with a goal of approving solar energy systems totaling at least 250,000 kilowatts of capacity in this State for the period beginning on July 1, 2010, and ending on December 31, 2021.~~

~~2. Subject to the limitation prescribed by subsection 3, the Commission may authorize the payment of an incentive pursuant to the Solar Energy Systems Incentive Program created by NRS 701B.240, the Geothermal Energy Systems Demonstration Program created pursuant to section 11 of this act, the Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820 if the payment of the incentive would not cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems, solar distributed generation systems, energy storage systems, ~~geothermal energy systems~~, wind energy systems and waterpower energy systems to exceed \$295,270,000 for the period beginning on July 1, 2010, and ending on December 31, 2025.~~

~~3. For the period beginning on January 1, 2018, and ending on December 31, 2023, the Commission shall, from the money allocated for the payment of an incentive pursuant to subsection 2, authorize the payment of incentives in an amount of not more than \$1,000,000 per year for the installation of solar energy systems and distributed generation systems at locations throughout the service territories of utilities in this State that benefit low income customers, including, without limitation, homeless shelters, low income housing developments and public entities, other than municipalities, that serve significant populations of low income residents.~~

~~4. The Commission may, subject to the limitations prescribed by subsections 2 and 3, authorize the payment of performance-based incentives for the period ending on December 31, 2025.~~

~~5. A utility may file with the Commission one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and~~

~~701B.850 [.] and section 14 of this act. The Commission shall review and approve any plan submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850, and section 14 of this act, as applicable.~~

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

~~(a) “Distributed generation system” has the meaning ascribed to it in NRS 701B.055.~~

~~(b) “Energy storage system” has the meaning ascribed to it in NRS 701B.057.~~

~~(c) “Municipality” means any county or city in this State.~~

~~(d) “Utility” means a public utility that supplies electricity in this State.]~~

(Deleted by amendment.)

Sec. 21. [NRS 701B.924 is hereby amended to read as follows:

~~701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:~~

~~(a) The length of time necessary to commence the project.~~

~~(b) The number of workers estimated to be employed on the project.~~

~~(c) The effectiveness of the project in reducing energy consumption.~~

~~(d) The estimated cost of the project.~~

~~(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.~~

~~(f) Whether the project has qualified for participation in one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2) The Renewable Energy School Pilot Program created by NRS 701B.350;~~

~~(3) **The Geothermal Energy Systems Demonstration Program created by section 11 of this act;**~~

~~(4) The Wind Energy Systems Demonstration Program created by NRS 701B.580;~~

~~[(4)] (5) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or~~

~~[(5)] (6) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.~~

~~2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic control systems, and to otherwise use sources of renewable energy to serve~~

~~those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:~~

- ~~— (a) The length of time necessary to commence the project.~~
- ~~— (b) The number of workers estimated to be employed on the project.~~
- ~~— (c) The effectiveness of the project in reducing energy consumption.~~
- ~~— (d) The estimated cost of the project.~~

~~— (e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.~~

~~— (f) Whether the project has qualified for participation in one or more of the following programs:~~

~~— (1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~— (2) The Renewable Energy School Pilot Program created by NRS 701B.350;~~

~~— (3) *The Geothermal Energy Systems Demonstration Program created by section 11 of this act;*~~

~~— (4) The Wind Energy Systems Demonstration Program created by NRS 701B.580;~~

~~— [(4)] (5) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or~~

~~— [(5)] (6) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.~~

~~3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:~~

- ~~— (a) The length of time necessary to commence the project.~~
- ~~— (b) The number of workers estimated to be employed on the project.~~
- ~~— (c) The effectiveness of the project in reducing energy consumption.~~
- ~~— (d) The estimated cost of the project.~~

~~— (e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.~~

~~— (f) Whether the project has qualified for participation in one or more of the following programs:~~

~~— (1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~— (2) The Renewable Energy School Pilot Program created by NRS 701B.350;~~

~~— (3) *The Geothermal Energy Systems Demonstration Program created by section 11 of this act;*~~

~~(4) The Wind Energy Systems Demonstration Program created by NRS 701B.580;~~

~~[(4)] (5) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or~~

~~[(5)] (6) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.~~

~~4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:~~

~~(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;~~

~~(b) Provisions requiring that each contractor and subcontractor employed on each such project:~~

~~(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or~~

~~(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;~~

~~(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and~~

~~(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.~~

~~5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.] (Deleted by amendment.)~~

Sec. 22. ~~[NRS 704B.310 is hereby amended to read as follows:~~

~~704B.310 1. An eligible customer shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless:~~

~~— (a) The eligible customer files an application with the Commission between January 2 and February 1 of any year and not later than 280 days before the date on which the eligible customer intends to begin purchasing energy, capacity or ancillary services from the provider;~~

~~— (b) The Commission approves the application by a written order issued in accordance with the provisions of this section; and~~

~~— (c) The provider holds a valid license.~~

~~— 2. Except as otherwise provided in subsection 3, each application filed pursuant to this section must include:~~

~~— (a) Specific information demonstrating that the person filing the application is an eligible customer;~~

~~— (b) Information demonstrating that the proposed provider will provide energy, capacity or ancillary services from a new electric resource;~~

~~— (c) Specific information concerning the terms and conditions of the proposed transaction that is necessary for the Commission to evaluate the impact of the proposed transaction on customers and the public interest, including, without limitation, information concerning the duration of the proposed transaction, the point of receipt of the energy, capacity or ancillary services and the amount of energy, capacity or ancillary services to be purchased from the provider;~~

~~— (d) Specific information identifying transmission requirements associated with the proposed transaction and the extent to which the proposed transaction requires transmission import capacity; and~~

~~— (e) Any other information required pursuant to the regulations adopted by the Commission.~~

~~— 3. The Commission shall not require the eligible customer or provider to disclose:~~

~~— (a) The price that is being paid by the eligible customer to purchase energy, capacity or ancillary services from the provider; or~~

~~— (b) Any other terms or conditions of the proposed transaction that the Commission determines are commercially sensitive.~~

~~— 4. The Commission shall provide public notice of the application of the eligible customer and an opportunity for a hearing on the application in a manner that is consistent with the provisions of NRS 703.320 and the regulations adopted by the Commission.~~

~~— 5. The Commission shall not approve the application of the eligible customer unless the Commission finds that the proposed transaction:~~

~~— (a) Will be in the public interest; and~~

~~— (b) Will not cause the total amount of energy and capacity that eligible customers purchase from providers of new electric resources through transactions approved by the Commission pursuant to an application submitted pursuant to this section on or after May 16, 2019, to exceed an annual limit set forth in a plan filed with the Commission pursuant to NRS 704.741 and accepted by the Commission pursuant to NRS 704.751.~~

~~6. In determining whether the proposed transaction will be in the public interest, the Commission shall consider, without limitation:~~

~~(a) Whether the electric utility that has been providing electric service to the eligible customer will experience increased costs as a result of the proposed transaction;~~

~~(b) Whether any remaining customer of the electric utility will pay increased costs for electric service or forgo the benefit of a reduction of costs for electric service as a result of the proposed transaction; and~~

~~(c) Whether the proposed transaction will impair system reliability or the ability of the electric utility to provide electric service to its remaining customers;~~

~~7. If the Commission approves the application of the eligible customer:~~

~~(a) The eligible customer shall not begin purchasing energy, capacity or ancillary services from the provider pursuant to the proposed transaction sooner than 280 days after the date on which the application was filed, unless the Commission allows the eligible customer to begin purchasing energy, capacity or ancillary services from the provider at an earlier date; and~~

~~(b) The Commission shall order such terms, conditions and payments as the Commission deems necessary and appropriate to ensure that the proposed transaction will be in the public interest. Except as otherwise provided in subsection 8, such terms, conditions and payments:~~

~~(1) Must be fair and nondiscriminatory as between the eligible customer and the remaining customers of the electric utility, except that the terms, conditions and payments must assign all identifiable but unquantifiable risk to the eligible customer;~~

~~(2) Must include, without limitation:~~

~~(I) Payment by the eligible customer to the electric utility of the eligible customer's load share portion of any unrecovered balance in the deferred accounts of the electric utility; and~~

~~(II) Payment by the eligible customer, or the provider of new electric resources, as applicable, of the annual assessment and any other tax, fee or assessment required by NRS 704B.360;~~

~~(3) Must establish payments calculated in a manner that provides the eligible customer with only its load ratio share of the benefits associated with forecasted load growth if load growth is utilized to mitigate the impact of the eligible customer's proposed transaction; and~~

~~(4) Must ensure that the eligible customer pays its load ratio share of the costs associated with the electric utility's obligations that were incurred as deviations from least cost resource planning pursuant to the laws of this State including, without limitation, costs incurred to satisfy the requirements of NRS 704.7821 and implement the provisions of NRS 701B.240, 701B.336, 701B.580, 701B.670, 701B.820, 702.160, 704.773, 704.7827, 704.7836, 704.785, 704.7865, 704.7983 and 704.7985 [.] and section 11 of this act;~~

~~8. An eligible customer who:~~

~~— (a) Was not an end use customer of the electric utility at any time before June 12, 2019; and~~

~~— (b) Would have a peak load of 10 megawatts or more in the service territory of an electric utility within 2 years of initially taking electric service;
 → is required to pay only those costs, fees, charges or rates which apply to current and ongoing legislatively mandated public policy programs, as determined by the Commission.~~

~~— 9. If the Commission does not enter a final order on the application of the eligible customer within 210 days after the date on which the application was filed with the Commission, the application shall be deemed to be denied by the Commission. } (Deleted by amendment.)~~

Sec. 23. ~~[NRS 111.239 is hereby amended to read as follows:~~

~~— 111.239 1. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of the property from using a system for obtaining solar *or geothermal* energy on his or her property is void and unenforceable.~~

~~— 2. For the purposes of this section, the following shall be deemed to be unreasonable restrictions:~~

~~— (a) The placing of a restriction or requirement on the use of a system for obtaining solar *or geothermal* energy which decreases the efficiency or performance of the system by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy, and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

~~— (b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing. } (Deleted by amendment.)~~

Sec. 24. ~~[NRS 278.0208 is hereby amended to read as follows:~~

~~— 278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of real property from using a system for obtaining solar *or geothermal* energy on his or her property.~~

~~— 2. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of the property from using a system for obtaining solar *or geothermal* energy on his or her property is void and unenforceable.~~

~~— 3. For the purposes of this section, the following shall be deemed to be unreasonable restrictions:~~

~~— (a) The placing of a restriction or requirement on the use of a system for obtaining solar *or geothermal* energy which decreases the efficiency or~~

performance of the system by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy, and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.

~~— (b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing. (Deleted by amendment.)~~

Sec. 25. ~~[NRS 338.1908 is hereby amended to read as follows:~~

~~338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:~~

~~— (a) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:~~

- ~~— (1) The length of time necessary to commence the project.~~
- ~~— (2) The number of workers estimated to be employed on the project.~~
- ~~— (3) The effectiveness of the project in reducing energy consumption.~~
- ~~— (4) The estimated cost of the project.~~
- ~~— (5) Whether the project is able to be powered by or otherwise use sources of renewable energy.~~
- ~~— (6) Whether the project has qualified for participation in one or more of the following programs:~~

~~— (I) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~— (II) The Renewable Energy School Pilot Program created by NRS 701B.350;~~

~~— (III) The Geothermal Energy Systems Demonstration Program created by section 11 of this act;~~

~~— (IV) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~— [(IV)] (V) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.~~

~~— (b) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.~~

~~— 2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Director of the Office of Energy and to any other entity designated for that purpose by the Legislature.~~

~~— 3. As used in this section:~~

~~— (a) “Local government” means each city or county that meets the definition of “eligible unit of local government” as set forth in 42 U.S.C. § 17151 and~~

each unit of local government, as defined in NRS 338.010, that does not meet the definition of “eligible entity” as set forth in 42 U.S.C. § 17151.

~~— (b) “Renewable energy” means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

- ~~— (1) Biomass;~~
- ~~— (2) Fuel cells;~~
- ~~— (3) Geothermal energy;~~
- ~~— (4) Solar energy;~~
- ~~— (5) Waterpower; and~~
- ~~— (6) Wind.~~

~~→ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.~~

~~— (c) “Retrofit” means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy efficient.] (Deleted by amendment.)~~

Sec. 26. ~~[Section 1 of this act is hereby amended to read as follows:~~

~~— Section 1. NRS 701.180 is hereby amended to read as follows:~~

~~— 701.180 The Director shall:~~

~~— 1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:~~

~~— (a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240, *the Geothermal Energy Systems Demonstration Program created by section 11 of this act* and the Wind Energy Systems Demonstration Program created pursuant to 701B.580, including, without limitation, information relating to:~~

~~— (1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;~~

~~— (2) The use of carbon-based energy in residential and commercial applications due to participation in the Programs; and~~

~~— (3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Programs; and~~

~~— (b) Information relating to any money distributed pursuant to NRS 702.270.~~

~~— 2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:~~

~~— (a) The level of demand for energy in the State for 5-, 10- and 20-year periods;~~

~~— (b) The amount of energy available to meet each level of demand;~~

~~— (c) The probable implications of the forecast on the demand and supply of energy; and~~

~~— (d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.~~

~~3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.~~

~~4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources:~~

~~(a) To promote energy projects that enhance the economic development of the State;~~

~~(b) To promote the use of renewable energy in this State;~~

~~(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;~~

~~(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and~~

~~(e) If the Director determines that it is feasible and cost effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).~~

~~5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~6. If requested to make a determination pursuant to NRS 111.230 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.~~

~~7. Cooperate with the Department of Wildlife in carrying out the provisions of NRS 701.600 to 701.640, inclusive.~~

~~8. Upon request by a developer of an energy development project or a local government in a county in which an energy development project is proposed to be located, coordinate discussions, not otherwise required by any existing regulatory agency, with interested parties concerning any potential effect of the energy development project.~~

~~9. Coordinate with local governments and representatives of the geothermal energy industry to recommend best practices for issuing a permit for the use or development of geothermal energy to streamline the process for such permits.~~

~~10. Carry out all other directives concerning energy that are prescribed by the Governor.~~ **(Deleted by amendment.)**

Sec. 27. 1. During the 2023-2024 legislative interim, the Office of Energy shall conduct a study ~~[concerning the use]~~ of the feasibility and application of and opportunities for current and new technologies for the development of geothermal resources in this State to be used to create a model framework for the development of geothermal energy in this State ~~[.]~~ , including, without limitation, the exploration, drilling and utilization of geothermal resources. The study must include, without limitation:

(a) ~~[A compilation]~~ **An analysis of the applicability of ~~[the current mapping and resource assessments for]~~ geothermal ~~[energy]~~ technologies in this State;**

(b) **An analysis of the scalability of geothermal technologies to the production of electricity, including, without limitation, the direct use of such technologies;**

(c) **An analysis of ~~[the]~~ potential locations to develop geothermal resources in this State and ~~[quality of geothermal resources in this State.]~~ the geologic conditions of such locations, including, without limitation, the technology transfer, development, acceleration and scale necessary to develop geothermal resources in such locations;**

~~[(c)]~~ (d) **An evaluation of the ~~[technological developments]~~ environment in this State for start-up businesses and innovations related to geothermal energy; ~~and~~**

~~[(d)]~~ (e) **A review of the environmental, economic, policy, regulatory and legal issues related to expanding the use of geothermal energy in this State ~~[.]~~ , including, without limitation, permitting, interagency coordination, economic development and the creation of new jobs; and**

(f) **An analysis of the potential workforce development related to the development of geothermal energy in this State.**

2. **In conducting the study required by subsection 1, the Office of Energy shall consult with interested stakeholders, including, without limitation, local governments, tribal governments, environmental groups, labor organizations, economic development authorities, water authorities, private industries, advanced technology industries and global interests.**

3. On or before December 31, 2024, the Office of Energy shall submit a report of its findings, including, without limitation, any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 83rd Session of the Legislature.

Sec. 28. ~~[.]~~ This ~~[section and sections 1 and 27 of this] act [become]~~ becomes effective upon passage and approval.

~~[2. Sections 2 to 26, inclusive, of this act become effective:~~

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

~~(b) On January 1, 2024, for all other purposes.~~

~~3. Sections 2 to 22, inclusive, 25 and 26 of this act expire by limitation on December 31, 2027.~~

Assemblyman Watts moved the adoption of the amendment.

Remarks by Assemblyman Watts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 336.

Bill read second time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 213.

ASSEMBLYMEN GONZÁLEZ, THOMAS, TORRES, D’SILVA, ~~ET AL~~, **C.H. MILLER;**
CARTER, DURAN, NEWBY, ~~AND~~ NGUYEN **AND WATTS**

AN ACT relating to driver authorization cards; revising provisions governing the renewal of driver authorization cards; ~~removing the prohibition against using a driver authorization card for certain state and local purposes;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a person who is not eligible for a driver’s license in this State to apply instead for a driver authorization card. Existing law ~~[(1)]~~ provides that a driver authorization card expires on the fourth anniversary of the holder’s birthday, measured from the birthday nearest the date of issuance or renewal, ~~[(1)]~~ and ~~(2) prohibits a driver authorization card from being used to determine eligibility for any benefits, licenses or services issued or provided by this State or its political subdivisions.]~~ (NRS 483.291) **Sections 1 and 2** of this bill change the expiration date of a driver authorization card so that, instead of every 4 years, a driver authorization card expires as prescribed by regulations adopted by the Department of Motor Vehicles for the expiration of drivers’ licenses. **Section 2** requires that, to the extent consistent with federal law, the regulations adopted by the Department ensure that the period between the issuance and expiration of a driver authorization card is equal to the period between the issuance and expiration of a driver’s license.

~~[Section 1 also removes the prohibition against a driver authorization card being used to determine eligibility for benefits, licenses or services issued or provided by the State or its political subdivisions.]~~

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

Section 1. NRS 483.291 is hereby amended to read as follows:

483.291 1. An application for an instruction permit or for a driver authorization card must:

(a) Be made upon a form furnished by the Department.

(b) Be verified by the applicant before a person authorized to administer oaths. Officers and employees of the Department may administer those oaths without charge.

(c) Be accompanied by the required fee.

(d) State the name, date of birth, sex and residence address of the applicant and briefly describe the applicant.

(e) State whether the applicant has theretofore been licensed as a driver, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation or refusal.

(f) Include such other information as the Department may require to determine the competency and eligibility of the applicant.

2. Every applicant must furnish proof of his or her name and age by displaying an original or certified copy of:

(a) Any one of the following documents:

(1) A birth certificate issued by a state or a political subdivision of a state;

(2) A driver's license issued by another state which is issued pursuant to the standards established by 6 C.F.R. Part 37, Subparts A to E, inclusive, and which contains a security mark approved by the United States Department of Homeland Security in accordance with 6 C.F.R. § 37.17;

(3) A passport issued by the United States Government;

(4) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States;

(5) For persons who served in any branch of the Armed Forces of the United States, a report of separation;

(6) A Certificate of Degree of Indian or Alaska Native Blood issued by the United States Government;

(7) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security;

(8) A Consular Report of Birth Abroad issued by the Department of State;

(9) A document issued by the Department pursuant to NRS 483.375 or 483.8605; or

(10) Such other documentation as specified by the Department by regulation; or

(b) Any two of the following documents:

(1) A driver's license issued by another state other than such a driver's license described in subparagraph (2) of paragraph (a);

(2) A passport issued by a foreign government;

(3) A birth certificate issued by a foreign government;

(4) A consular identification card issued by the Government of Mexico or a document issued by another government that the Department determines is substantially similar; or

(5) Any other proof acceptable to the Department.

↪ No document which is written in a language other than English may be accepted by the Department pursuant to this subsection unless it is accompanied by a verified translation of the document in the English language.

3. Every applicant must prove his or her residence in this State by displaying an original or certified copy of any two of the following documents:

- (a) A receipt from the rent or lease of a residence located in this State;
- (b) A record from a public utility for a service address located in this State which is dated within the previous 60 days;
- (c) A bank or credit card statement indicating a residential address located in this State which is dated within the previous 60 days;
- (d) A stub from an employment check indicating a residential address located in this State;
- (e) A document issued by an insurance company or its agent, including, without limitation, an insurance card, binder or bill, indicating a residential address located in this State;
- (f) A record, receipt or bill from a medical provider indicating a residential address located in this State; or
- (g) Any other document as prescribed by the Department by regulation.

4. Except as otherwise provided in subsection 5, a driver authorization card or instruction permit obtained in accordance with this section must:

- (a) Contain the same information as prescribed for a driver's license pursuant to NRS 483.340 and any regulations adopted pursuant thereto;
- (b) Be of the same design as a driver's license and contain only the minimum number of changes from that design that are necessary to comply with subsection 5; and
- (c) Be numbered from the same sequence of numbers as a driver's license.

5. A driver authorization card or instruction permit obtained in accordance with this section must comply with the requirements of section 202(d)(11) of the Real ID Act of 2005, Public Law 109-13, Division B, Title II, 119 Stat. 302, 312-15, 49 U.S.C. § 30301 note.

6. Notwithstanding the provisions of NRS 483.380, every driver authorization card:

(a) Expires ~~on the fourth anniversary of the holder's birthday, measured in the case of initial issuance or renewal from the birthday nearest the date of issuance or renewal.~~ ***as prescribed by regulations adopted by the Department pursuant to NRS 483.380.***

(b) Is renewable at any time before its expiration upon application and payment of the required fee. ~~[The Department may, by regulation, defer the expiration of the driver authorization card of a person who is on active duty in the Armed Forces of the United States upon such terms and conditions as it may prescribe. The Department may similarly defer the expiration of the driver authorization card of the spouse or dependent son or daughter of that person if the spouse or child is residing with the person.]~~

7. A driver authorization card shall not be used to determine eligibility for any benefits, licenses or services issued or provided by this State or its political subdivisions.

8. Except as otherwise provided in this section or by specific statute, any provision of this title that applies to drivers' licenses shall be deemed to apply to a driver authorization card and an instruction permit obtained in accordance with this section.

Sec. 2. NRS 483.380 is hereby amended to read as follows:

483.380 1. Except as otherwise provided in NRS 483.283, every driver's license **and driver authorization card** expires as prescribed by regulation.

2. The Department shall adopt regulations prescribing when a driver's license ~~expires.~~ **and driver authorization card expire.** The Department may, by regulation, defer the expiration of the driver's license **or driver authorization card** of a person who is on active duty in the Armed Forces upon such terms and conditions as it may prescribe. The Department may similarly defer the expiration of the **driver's** license **or driver authorization card** of the spouse or dependent son or daughter of that person if the spouse or child is residing with the person.

3. ***Except as otherwise required by federal law, the regulations required pursuant to subsection 2 must ensure that the period between the issuance and expiration of a driver authorization card is equal to the period between the issuance and expiration of a driver's license.***

Sec. 3. 1. This section becomes effective upon passage and approval.

2. Sections 1 and 2 of this act become effective:

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

(b) On January 1, 2024, for all other purposes.

Assemblyman Watts moved the adoption of the amendment.

Remarks by Assemblyman Watts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 343.

Bill read second time.

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

Amendment No. 116.

AN ACT relating to occupational therapy; authorizing the Board of Occupational Therapy to issue a license by reciprocity as an occupational therapist or occupational therapy assistant; authorizing the Board to issue certain citations to licensees for certain violations; revising the qualifications for a person to obtain a license as an occupational therapist or occupational therapy assistant; providing a salary for members of the Board; revising

various provisions relating to licensing occupational therapists or occupational therapy assistants; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of occupational therapists and occupational therapy assistants by the Board of Occupational Therapy. (Chapter 640A of NRS) Existing law requires a person to meet certain requirements to obtain a license as an occupational therapist or occupational therapy assistant, including the satisfaction of certain educational requirements in a program approved by the Board, the successful completion of a certain amount of fieldwork experience approved by the Board and the passage of an examination approved by the Board. (NRS 640A.120) **Section 8** of this bill revises those requirements to instead require, with certain exceptions, a person who wishes to obtain a license as an occupational therapist or occupational therapy assistant to: (1) pass an examination on the laws and regulations governing the practice of occupational therapy in this State approved by the Board pursuant to **section 10** of this bill; and (2) hold a current certification as an occupational therapist or occupational therapy assistant, as applicable, with the National Board for Certification in Occupational Therapy, or its successor organization. **Section 5** of this bill revises a reference to the educational program required for licensure to reflect the changes made by **section 8**. **Section 19** of this bill repeals provisions concerning the issuance of certain licenses to conform to the changes made by **section 8**.

Existing law authorizes the issuance of a license by endorsement as an occupational therapist to an applicant who holds a valid and unrestricted license as an occupational therapist in the District of Columbia or any state or territory of the United States and who meets certain other requirements. (NRS 640A.165, 640A.166) **Section 2** of this bill authorizes the Board to issue a license by reciprocity as an occupational therapist or occupational therapy assistant to a person who holds a valid and unrestricted license as an occupational therapist or occupational therapy assistant, as applicable, in any state that is a member of the Occupational Therapy Licensure Compact and who meets certain other requirements. **Sections 2, 11 and 12** of this bill require an applicant for a licensure by endorsement or by reciprocity to meet the requirements set forth in **section 8**.

Existing law authorizes the Board to issue a temporary license to a person who meets the qualifications for licensure as an occupational therapist or occupational therapy assistant other than the passage of the examination approved by the Board. If the person to whom a temporary license does not hold a license in another State and is not certified by the National Board for Certification in Occupational Therapy, existing law authorizes the person to practice occupational therapy under the temporary license only under the general supervision of a licensed occupational therapist. (NRS 640A.170) **Section 13** of this bill requires a temporary license to be issued only to a person who is licensed in another state and who meets the requirements set forth in

section 8. **Section 3** of this bill provides for the issuance of a provisional license to a person who: (1) has passed the examination approved by the Board pursuant to **section 10**; (2) has completed certain educational requirements; and (3) is eligible to take the national examination required for certification. Under **section 3**, a person to whom a provisional license is issued is authorized to practice occupational therapy under the temporary license only under the general supervision of a licensed occupational therapist.

Existing law exempts a person enrolled in an educational program approved by the Board from the provisions of existing law governing occupational therapy under certain circumstances. (NRS 640A.070) **Section 6** of this bill revises the type of educational program in which a person must be enrolled to qualify for the exemption. **Section 9** of this bill revises certain requirements concerning an application for a license. **Section 15** of this bill authorizes the Board to establish fees for the issuance of a license by reciprocity and a provisional license.

Existing law authorizes the Board to adopt regulations imposing continuing education requirements for the renewal of a license. (NRS 640A.180) **Section 14** of this bill provides that such requirements may require a licensee to take and pass the examination approved by the Board pursuant to **section 10** at intervals set by the Board.

Existing law provides that the members of the Board serve without compensation while engaged in the business of the Board. (NRS 640A.100) **Section 7** of this bill provides that each member of the Board is entitled to a salary of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board.

Existing law authorizes the Board to impose certain penalties against a licensee who commits certain violations of the provisions of existing law governing occupational therapy or who engages in certain other conduct. (NRS 640A.200) **Section 4** of this bill authorizes the Board to issue a citation to a licensee who commits certain specified violations of certain regulations adopted by the Board.

Sections 16-18 of this bill make technical changes to existing provisions which exempt persons licensed as an occupational therapist or occupational therapy assistant from certain provisions governing other professions.

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

Section 1. Chapter 640A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *The Board may issue a license by reciprocity as an occupational therapist or occupational therapy assistant to an applicant who meets the requirements set forth in this section. An applicant may submit an application for such a license if the applicant:*

(a) *Holds a valid and unrestricted license as an occupational therapist or occupational therapy assistant, as applicable, in any state that is a member of the Occupational Therapy Licensure Compact; and*

(b) *Meets the requirements set forth in NRS 640A.120.*

2. *An applicant for a license by reciprocity pursuant to this section must submit to the Board with his or her application:*

(a) *Proof satisfactory to the Board that the applicant satisfies the requirements of subsection 1;*

(b) *A fee in the amount set by regulation of the Board pursuant to NRS 640A.190; and*

(c) *Any other information required by the Board.*

Sec. 3. 1. *The Board may issue a provisional license to a person who:*

(a) *Has passed the examination approved by the Board pursuant to NRS 640A.150;*

(b) *Has graduated from an educational program accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association Inc., or its successor organization, or ~~for an~~ equivalent, a comparable foreign educational program accepted by the National Board for Certification in Occupational Therapy, or its successor organization, as an equivalent requirement for certification; and*

(c) *Is eligible to take the national examination required for certification by the National Board for Certification in Occupational Therapy.*

2. *A provisional license issued pursuant to this section authorizes the person to whom the provisional license is issued to practice occupational therapy only under the general supervision of an occupational therapist licensed pursuant to this chapter.*

3. *A provisional license issued pursuant to this section is valid for 6 months or until the person to whom it is issued otherwise obtains a license pursuant to this chapter, whichever occurs first.*

4. *The Board may renew a provisional license not more than once and may revoke a provisional license for any of the grounds set forth in NRS 640A.200.*

Sec. 4. 1. *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 any regulation of the Board that requires a licensee to:*

(a) *Provide his or her current contact information to the Board;*

(b) *Provide to the Board information relating to the supervision or employment of the licensee;*

(c) *Display his or her license or a copy thereof;*

(d) *Practice only under the name listed on his or her license;*

(e) *Provide proof of continuing education; or*

(f) *Provide to the Board information or documentation required to be maintained by the licensee.*

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) Except as otherwise provided by subsection 4, pay an administrative fine not to exceed the amount prescribed pursuant to subsection 3.

3. Any administrative fine imposed pursuant to this section must be in the amount prescribed by regulation of the Board, which must be not more than \$500.

4. If a citation issued pursuant to this section contains an order to pay an administrative fine, the person to whom the citation was issued may submit a written request to the Board to waive the administrative fine. If the Board determines that good cause exists to waive the administrative fine, the Board may grant the request.

5. The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

Sec. 5. NRS 640A.050 is hereby amended to read as follows:

640A.050 “Occupational therapy” means the use of evaluations, teachings and interventions to facilitate the activities of daily living of a client in groups or on an individual basis to enable the client to participate in and perform activities of daily living in various settings, including, without limitation, at home, at school, in the workplace and in the community. The term includes:

1. Providing services for habilitation, rehabilitation and the promotion of health and wellness to a client;

2. Assisting a client in achieving the highest practicable physical, cognitive and psychosocial well-being to improve the physical and mental health of the client and the quality of life of the client;

3. Teaching a client skills for daily living;

4. Assisting a client in the development of cognitive and perceptual motor skills, and in the integration of sensory functions;

5. Assisting a client in learning to play and to use his or her leisure time constructively;

6. Assisting a client in developing functional skills necessary to be considered for employment;

7. Assessing the need for, designing, constructing and training a client in the use and application of selected orthotic devices and adaptive equipment;

8. Assessing the need for prosthetic devices for the upper body and training a client in the functional use of prosthetic devices;

9. Teaching a client crafts and exercises designed to enhance his or her ability to function normally;

10. Administering to a client manual tests of his or her muscles and range of motion, and interpreting the results of those tests;

11. Incorporating into the treatment of a client the safe and appropriate use of physical agent modalities and techniques which have been acquired through an ~~[appropriate]~~ **educational** program ~~[of education approved by the Board pursuant to subsection 2 of]~~ **required to obtain the certification described in** NRS 640A.120, or through a program of continuing education or higher education; and

12. Adapting the environment of a client to reduce the effects of handicaps.

Sec. 6. NRS 640A.070 is hereby amended to read as follows:

640A.070 This chapter does not apply to a person:

1. Holding a current license or certificate issued pursuant to chapter 391, 630 to 637B, inclusive, 640, 640B to 641B, inclusive, or 641D of NRS, who practices within the scope of that license or certificate.

2. Employed by the Federal Government who practices occupational therapy within the scope of that employment.

3. Enrolled in an educational program ~~[approved by the Board]~~ **that is accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, Inc. or its successor organization, or [an equivalent] a comparable foreign educational program accepted by the National Board for Certification in Occupational Therapy, or its successor organization,** which is designed to lead to a certificate or degree in occupational therapy, if the person is designated by a title which clearly indicates that he or she is a student.

~~[4. Obtaining the supervised fieldwork experience necessary to satisfy the requirements of subsection 3 of NRS 640A.120.]~~

Sec. 7. NRS 640A.100 is hereby amended to read as follows:

640A.100 1. ~~[The members]~~ **Each member** of the Board ~~[serve without compensation, except that while engaged in the business of the Board, each member]~~ is entitled to ~~[the]~~ **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. The Board may employ an Executive Director and any other employees it deems necessary, establish their duties and fix their salaries.

3. The expenses of the Board and members of the Board, and the salaries of its employees, must be paid from the fees received by the Board pursuant to this chapter, and no part of those expenses and salaries may be paid out of the State General Fund.

Sec. 8. NRS 640A.120 is hereby amended to read as follows:

640A.120 Except as otherwise provided in ~~[NRS 640A.165 and 640A.166,]~~ **section 3 of this act**, to be eligible for licensing by the Board as an occupational therapist or occupational therapy assistant, an applicant must:

1. ~~[Be a natural person of good moral character.]~~ **Have passed the examination approved by the Board pursuant to NRS 640A.150; and**

2. ~~[Except as otherwise provided in NRS 640A.130, have satisfied the academic requirements of an educational program approved by the Board. The Board shall not approve an educational program designed to qualify a person to practice as an occupational therapist or an occupational therapy assistant unless the program is accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, Inc., or its successor organization.]~~

~~3. Except as otherwise provided in NRS 640A.130, have successfully completed:~~

~~(a) If the application is for licensing as an occupational therapist, 24 weeks; or~~

~~(b) If the application is for licensing as an occupational therapy assistant, 16 weeks;~~

~~of supervised fieldwork experience approved by the Board. The Board shall not approve any supervised experience unless the experience was sponsored by the American Occupational Therapy Association, Inc., or its successor organization, or the educational institution at which the applicant satisfied the requirements of subsection 2.~~

~~4. Except as otherwise provided in NRS 640A.160 and 640A.170, pass an examination approved by the Board.]~~ **Hold a current certification as an occupational therapist or occupational therapy assistant, as applicable, with the National Board for Certification in Occupational Therapy, or its successor organization.**

Sec. 9. NRS 640A.140 is hereby amended to read as follows:

640A.140 1. Except as otherwise provided in NRS 640A.165 and 640A.166, **and section 2 of this act**, a person who desires to be licensed by the Board as an occupational therapist or occupational therapy assistant must:

(a) Submit an application to the Board ~~[on a form furnished by]~~ **in the manner prescribed by** the Board; and

(b) Provide evidence satisfactory to the Board that he or she possesses the qualifications required pursuant to ~~[subsections 1, 2 and 3 of]~~ NRS 640A.120.

2. The application must include all information required to complete the application.

Sec. 10. NRS 640A.150 is hereby amended to read as follows:

640A.150 ~~[1.]~~ The Board shall:

~~[(a)]~~ **1.** Approve an examination ~~[for licensing as an occupational therapist and an examination for licensing as an occupational therapy assistant; and]~~ **on the laws and regulations governing the practice of occupational therapy in this State; and**

~~{{(b)}} 2.~~ Establish the requirements to pass ~~[each]~~ **the** examination.

~~[2. Each examination must be in writing and be designed to test an applicant's knowledge of:~~

~~—(a) The basic and clinical sciences relating to occupational therapy;~~

~~—(b) The techniques and methods of occupational therapy; and~~

~~—(c) Any other subjects the Board requires to determine the fitness of an applicant to practice occupational therapy.~~

~~—3. A person who has satisfied the requirements of NRS 640A.140 may take the appropriate examination for licensing.]~~

Sec. 11. NRS 640A.165 is hereby amended to read as follows:

640A.165 1. The Board may issue a license by endorsement as an occupational therapist 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 **satisfies the requirements set forth in NRS 640A.120 and** holds a corresponding valid and unrestricted license as an occupational therapist 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) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license as an occupational therapist; and

(3) 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) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(c) A fee in the amount of the fee set by a regulation of the Board pursuant to NRS 640A.190 for the initial issuance of a license; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement as an occupational 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 an occupational therapist to the applicant not later than 45 days after receiving the application.

4. A license by endorsement as an occupational therapist may be issued at a meeting of the Board or between its meetings by the Chair of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 12. NRS 640A.166 is hereby amended to read as follows:

640A.166 1. The Board may issue a license by endorsement as an occupational therapist 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 an occupational therapist in the District of Columbia or any state or territory of the United States; ~~and~~

(b) ***Meets the requirements set forth in NRS 640A.120; and***

(c) 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) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as an occupational therapist; and

(3) 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) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(c) A fee in the amount set by a regulation of the Board pursuant to NRS 640A.190 for the initial issuance of a license; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement as an occupational 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 an occupational therapist to the applicant not later than 45 days after receiving all the additional information required by the Board to complete the application.

4. A license by endorsement as an occupational therapist may be issued at a meeting of the Board or between its meetings by the Chair of the Board. Such an action shall be deemed to be an action of the Board.

5. At any time before making a final decision on an application for a license by endorsement pursuant to this section, the Board may grant a provisional license authorizing an applicant to practice as an occupational therapist 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. 13. NRS 640A.170 is hereby amended to read as follows:

640A.170 1. The Board may issue, ~~[without examination,]~~ a temporary license to a person who has the qualifications required pursuant to ~~[subsections 1, 2 and 3 of]~~ NRS 640A.120 and who ~~[~~

~~—(a) Is certified by the National Board for Certification in Occupational Therapy or its successor organization and]~~ is licensed as an occupational

therapist or occupational therapy assistant in good standing in another state . ~~or~~

~~—(b) Has not achieved the passing score on the examination approved pursuant to NRS 640A.150. A temporary license issued pursuant to this paragraph authorizes the person to whom it is issued to practice occupational therapy only under the general supervision of an occupational therapist licensed pursuant to this chapter.]~~

2. A temporary license issued pursuant to subsection 1 is valid for 6 months or until the person to whom it is issued otherwise obtains a license pursuant to this chapter, whichever occurs first.

3. The Board may renew a temporary license not more than once and may revoke a temporary license for any of the grounds set forth in NRS 640A.200.

Sec. 14. NRS 640A.180 is hereby amended to read as follows:

640A.180 1. The Board shall adopt regulations prescribing the period for which a license issued pursuant to the provisions of this chapter is valid. Except as otherwise provided in NRS 640A.170, **and section 3 of this act**, the period must be not less than 1 year.

2. The Board may adopt regulations prescribing the manner in which a license issued pursuant to this chapter must be renewed, which may include requirements for continuing education. ***Such requirements for continuing education may require a licensee to take and pass the examination approved by the Board pursuant to NRS 640A.150 at intervals set by the Board.***

3. The Board may adopt regulations providing for the late renewal of a license and the reinstatement of an expired license, except that the Board may not renew or reinstate a license if 5 years have passed since its expiration.

4. The Board may, at the request of a person licensed pursuant to this chapter, place the license on inactive status if the person:

(a) Does not practice occupational therapy, or represent that the person is authorized to practice occupational therapy, in this State; and

(b) Satisfies any requirements for continuing education established by the Board.

Sec. 15. NRS 640A.190 is hereby amended to read as follows:

640A.190 1. The Board may by regulation establish reasonable fees for:

(a) The examination of an applicant for a license;

(b) The initial issuance of a license, including a license by endorsement;

(c) The issuance of a temporary license;

(d) ***The issuance of a provisional license;***

(e) ***The issuance of a license by reciprocity pursuant to section 2 of this act;***

(f) The renewal of a license; and

~~[(e)]~~ (g) The late renewal of a license.

2. If an applicant submits an application for a license by endorsement pursuant to NRS 640A.166, the Board shall collect not more than one-half of the fee established pursuant to subsection 1 for the initial issuance of the license.

3. Except as otherwise provided in subsection 2, the fees must be set in such an amount as to reimburse the Board for the cost of carrying out the provisions of this chapter.

Sec. 16. 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 pursuant to chapter 641B of NRS;
6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to **chapter 640A of NRS** ; ~~[640A.010 to 640A.230, inclusive;]~~
7. A person who is licensed as a clinical alcohol and drug counselor, licensed or certified as an alcohol and drug counselor or certified as an alcohol and drug counselor intern, a clinical alcohol and drug counselor intern, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS;
8. A person who provides or supervises the provision of peer recovery support services in accordance with the provisions of NRS 433.622 to 433.641, inclusive;
9. A person who is licensed as a behavior analyst or an assistant behavior analyst or registered as a registered behavior technician pursuant to chapter 641D of NRS, while engaged in the practice of applied behavior analysis as defined in NRS 641D.080; or
10. Any member of the clergy,
↪ if such a person does not commit an act described in NRS 641.440 or represent himself or herself as a psychologist.

Sec. 17. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A nurse who is licensed to practice in this State;
3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS or authorized to practice psychology in this State pursuant to the Psychology Interjurisdictional Compact enacted in NRS 641.227;
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 **chapter 640A of NRS** ; ~~[640A.010 to 640A.230, inclusive;]~~

7. A person who is licensed as a clinical alcohol and drug counselor, licensed or certified as an alcohol and drug counselor or certified as a clinical alcohol and drug counselor intern, an alcohol and drug counselor intern, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS;

8. A person who provides or supervises the provision of peer recovery support services in accordance with NRS 433.622 to 433.641, inclusive;

9. Any member of the clergy;

10. A county welfare director;

11. Any person who may engage in social work or clinical social work in his or her regular governmental employment but does not hold himself or herself out to the public as a social worker; or

12. A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by the title “student of social work” or “trainee in social work,” or any other title which clearly indicates the student’s training status.

Sec. 18. NRS 641D.110 is hereby amended to read as follows:

641D.110 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 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 to engage in social work pursuant to chapter 641B of NRS;

7. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to **chapter 640A of NRS** ; ~~{640A.010 to 640A.230, inclusive;}~~

8. A person who is licensed as a clinical alcohol and drug counselor, licensed or certified as an alcohol and drug counselor or certified as an alcohol and drug counselor intern, a clinical alcohol and drug counselor intern, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS;

9. Any member of the clergy;

10. A family member, guardian or caregiver of a recipient of applied behavior analysis services who performs activities as directed by a behavior analyst or assistant behavior analyst; or

11. An employee of a school district or charter school when providing services to a pupil in a public school in a manner consistent with the duties of his or her position,

↪ if such a person does not commit an act described in NRS 641D.910 or represent himself or herself as a behavior analyst, assistant behavior analyst or registered behavior technician.

Sec. 19. NRS 640A.130 and 640A.160 are hereby repealed.

Sec. 20. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 19, inclusive, of this act become effective:

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

(b) On January 1, 2024, for all other purposes.

TEXT OF REPEALED SECTIONS

640A.130 Waiver for completion of equivalent foreign education and experience. The Board may waive the requirements of subsections 2 and 3 of NRS 640A.120 for an applicant who:

1. Receives an education in occupational therapy from a foreign school; and

2. Proves to the satisfaction of the Board that his or her education and experience are substantially equivalent to the education and experience required by those subsections.

640A.160 Issuance of license without examination. The Board may issue, without examination, a license as an occupational therapist or occupational therapy assistant to a person who has the qualifications required pursuant to subsections 1, 2 and 3 of NRS 640A.120 and who is certified by the National Board for Certification in Occupational Therapy or its successor organization.

Assemblywoman Marzola moved the adoption of the amendment.

Remarks by Assemblywoman Marzola.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Monroe-Moreno moved that upon return from the printer, Assembly Bills Nos. 72, 217, 239, 258, 301, 315, and 336 be rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 21.

Bill read third time.

Remarks by Assemblywoman Marzola.

ASSEMBLYWOMAN MARZOLA:

Assembly Bill 21 makes various changes to provisions governing persons engaged in the transmission of money.

Roll call on Assembly Bill No. 21:

YEAS—28.

NAYS—DeLong, Dickman, Gallant, Gray, Gurr, Hafen, Hansen, Hardy, Hibbetts, Kasama, Koenig, McArthur, O'Neill, Yurek—14.

Assembly Bill No. 21 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 114.

Bill read third time.

Remarks by Assemblywoman Thomas.

ASSEMBLYWOMAN THOMAS:

Assembly Bill 114 revises the membership of the Nevada Early Childhood Advisory Council. For purposes of the duties of the Council, the bill defines the term “early childhood program” as any program for children less than eight years of age pertaining to nutrition, health care, mental and behavioral health, protection, and play and learning to stimulate a child’s development.

This bill is effective on October 1, 2023.

Roll call on Assembly Bill No. 114:

YEAS—42.

NAYS—None.

Assembly Bill No. 114 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 116.

Bill read third time.

Remarks by Assemblywoman Brown-May.

ASSEMBLYWOMAN BROWN-MAY:

Assembly Bill 116 requires certain health care providers to provide information concerning Down syndrome and referrals for related support services to the parent or guardian of a child with Down syndrome or a person who is pregnant and has received test results indicating the fetus has Down syndrome, if the person wishes to receive such information. The Department of Health and Human Services must also maintain a website listing support services available in different areas of the state for people with Down syndrome and parents or guardians of such persons.

Roll call on Assembly Bill No. 116:

YEAS—42.

NAYS—None.

Assembly Bill No. 116 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 146.

Bill read third time.

Remarks by Assemblywoman Marzola.

ASSEMBLYWOMAN MARZOLA:

Assembly Bill 146 clarifies the definition of “video service” to mean the provision by a video service provider over a video service network of certain multichannel video programming provided by a video service provider.

Roll call on Assembly Bill No. 146:

YEAS—42.

NAYS—None.

Assembly Bill No. 146 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 159.

Bill read third time.

Remarks by Assemblyman O’Neill.

ASSEMBLYMAN O’NEILL:

Assembly Bill 159 adds certain offenses relating to cruelty to animals to the list of offenses for which credits earned by offenders may not be deducted from the minimum term or the minimum aggregate term imposed by a sentence; the court may not defer judgment; and a person must not have been convicted to be eligible for early discharge from probation. Lastly, the bill sets the maximum period of probation or suspension of sentence for these offenses at 60 months.

Roll call on Assembly Bill No. 159:

YEAS—42.

NAYS—None.

Assembly Bill No. 159 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 311.

Bill read third time.

Remarks by Assemblywoman Bilbray-Axelrod.

ASSEMBLYWOMAN BILBRAY-AXELROD:

Assembly Bill 311 authorizes a hospital to enter into an agreement with the Armed Forces of the United States allowing unlicensed federal medical providers and surgical technologists to provide care in the hospital if they are operating in their official capacity and within the scope of practice authorized by the federal government and part of a training or educational program.

I brought this bill because I became aware of UMC [University Medical Center] leading the nation with programs like this. We worked really hard with Jeremy Kilburn of the United States Air Force, and I am really proud of this bill. I know that several of you wanted to be co-sponsors. I am happy to do that on the other side. I appreciate your vote.

Roll call on Assembly Bill No. 311:

YEAS—42.

NAYS—None.

Assembly Bill No. 311 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 359.

Bill read third time.

Remarks by Assemblywoman Monroe-Moreno.

ASSEMBLYWOMAN MONROE-MORENO:

Assembly Bill 359 removes the requirement for voters to approve the continued increases on the indexed fuel tax rates on and after January 1, 2027, instead authorizing the continued imposition of additional increases in these tax rates only if the board of county commissioners, on or before December 31, 2026, adopts an ordinance authorizing the effectuation of such annual increases. Otherwise, the board is prohibited from imposing any additional annual increases in those taxes.

Roll call on Assembly Bill No. 359:

YEAS—32.

NAYS—DeLong, Dickman, Gallant, Gray, Hafen, Hansen, Kasama, McArthur, O'Neill, Yurek—10.

Assembly Bill No. 359 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 372.

Bill read third time.

Remarks by Assemblyman McArthur.

ASSEMBLYMAN MCARTHUR:

Assembly Bill 372 authorizes the Board of Regents of the Nevada System of Higher Education to enter into an agreement with a nonprofit organization, community entity, or government agency to jointly provide families and caretakers with training, workshops, and resources designed to facilitate family involvement in early childhood education. The bill further outlines certain provisions relating to such agreements, including the standards that must be met by the organization, entity, or agency, and an allocation of any shared costs.

Roll call on Assembly Bill No. 372:

YEAS—42.

NAYS—None.

Assembly Bill No. 372 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 394.

Bill read third time.

Remarks by Assemblyman C.H. Miller.

ASSEMBLYMAN C.H. MILLER:

Assembly Bill 394 requires the Secretary of State to adopt by regulation a procedure to be used if the abstract or certification of results for any election is not timely prepared or transmitted as required by statute. Additionally, the measure provides that ballots may only be counted once except as otherwise required during an audit or recount.

Roll call on Assembly Bill No. 394:

YEAS—28.

NAYS—DeLong, Dickman, Gallant, Gray, Gurr, Hafen, Hansen, Hardy, Hibbetts, Kasama, Koenig, McArthur, O'Neill, Yurek—14.

Assembly Bill No. 394 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 411.

Bill read third time.

Remarks by Assemblywoman Mosca.

ASSEMBLYWOMAN MOSCA:

Assembly Bill 411 requires a medical facility to allow a patient to engage in the medical use of cannabis at the medical facility if the patient holds a valid registry identification card or letter of approval and is terminally ill. A medical facility that allows a patient to engage in the medical use of cannabis is prohibited from allowing the patient to smoke or consume cannabis by means of inhalation.

Lastly, the bill exempts a medical facility from complying with such provisions if a federal agency initiates an enforcement action against the medical facility, adopts regulations prohibiting such use of cannabis, or provides notice to the medical facility that such use is prohibited.

Roll call on Assembly Bill No. 411:

YEAS—29.

NAYS—DeLong, Dickman, Gray, Gurr, Hafen, Hansen, Hardy, Hibbetts, Kasama, Koenig, McArthur, O'Neill, Yurek—13.

Assembly Bill No. 411 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 437.

Bill read third time.

Remarks by Assemblymen Marzola and O'Neill.

ASSEMBLYWOMAN MARZOLA:

Assembly Bill 437 prohibits a health care provider from charging a person more than \$10 to fill out a form for certification required by an employer pursuant to the Family and Medical Leave Act of 1993.

ASSEMBLYMAN O'NEILL:

Although I greatly appreciate the intent of this bill, I think it would best be handled by regulation due to economics. By placing it in statute, it is unable to be changed except every two years, and it would be best handled by regulation. I ask my colleagues to vote no on this bill.

Roll call on Assembly Bill No. 437:

YEAS—28.

NAYS—DeLong, Dickman, Gallant, Gray, Gurr, Hafen, Hansen, Hardy, Hibbetts, Kasama, Koenig, McArthur, O'Neill, Yurek—14.

Assembly Bill No. 437 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 452.

Bill read third time.

Remarks by Assemblywoman Newby.

ASSEMBLYWOMAN NEWBY:

Assembly Bill 452 requires the Director of the Department of Corrections to adopt regulations to establish and govern a program for the visitation of offenders. The bill further requires a warden or manager who denies a prospective visitor to provide written notice of the denial that includes certain information. The Department must establish a panel to review such denials upon appeal of a prospective visitor.

Roll call on Assembly Bill No. 452:

YEAS—28.

NAYS—DeLong, Dickman, Gallant, Gray, Gurr, Hafen, Hansen, Hardy, Hibbetts, Kasama, Koenig, McArthur, O'Neill, Yurek—14.

Assembly Bill No. 452 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 454.

Bill read third time.

Remarks by Assemblywoman La Rue Hatch.

ASSEMBLYWOMAN LA RUE HATCH:

Assembly Bill 454 allows the Board on Indigent Defense Services to set rates for certain services in rural counties and codifies current practices on the share of state versus county costs on those services.

Roll call on Assembly Bill No. 454:

YEAS—40.

NAYS—Gray, McArthur—2.

Assembly Bill No. 454 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 231.

Bill read third time.

The following amendment was proposed by Assemblywoman Backus:

Amendment No. 54.

AN ACT relating to the Uniform Commercial Code; enacting the 2022 amendments to the Uniform Commercial Code; enacting the 2018 amendments to Article 9 of the Code; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains the Uniform Commercial Code, which is a set of uniform laws governing commercial transactions. (Chapters 104 and 104A of NRS) This bill enacts the 2022 amendments to the Uniform Commercial Code, which: (1) adds Article 12 governing controllable electronic records; and (2) makes various changes to Articles 1, 2, 3, 5, 7, 8, 9, 2A and 4A of the Code. **Sections 75 and 76** of this bill also enact the 2018 amendments to Article 9 of the Code.

Sections 9-15 of this bill enact Article 12, which provides rules for transactions involving controllable electronic records. **Section 10** of this bill defines certain terms for the purposes of Article 12. **Section 26** of this bill

makes a conforming change to account for the definition of “value” set forth in **section 10**. **Section 11** of this bill: (1) establishes that Article 9 will govern if it is in conflict with Article 12; and (2) provides that a transaction that is subject to Article 12 is also subject to certain other laws that establish different rules for consumers. **Sections 12, 13 and 70** of this bill establish the circumstances under which a purchaser obtains control of and certain rights in a controllable account, controllable payment intangible or controllable electronic record. **Section 14** of this bill sets forth certain circumstances under which an account debtor on a controllable account or controllable payment intangible may discharge his or her obligation under certain circumstances. **Section 15** of this bill establishes rules for determining the jurisdiction whose law governs a controllable electronic record. **Section 27** of this bill provides that the provisions of an agreement specifying applicable law for a transaction governed by **section 15** is effective only to the extent permitted by **section 15**.

Sections 16-24 of this bill enact the transitional rules included in the 2022 amendments to the Code and define certain related terms. **Section 18** of this bill provides that a transaction validly entered into before the effective date of this bill, which is October 1, 2023, and the rights, duties and interests flowing from the transaction remain valid thereafter.

Existing law contains Article 1 of the Code, which sets forth the definitions and other general provisions that, in the absence of any conflicting provision in the Code, apply as default rules for transactions and matters otherwise covered in other articles of the Code. (NRS 104.1101-104.1310) **Section 25** of this bill enacts the uniform amendments to the definitions of certain terms which are defined for the purposes of the Code. Among other changes, **section 25** revises the definition of the term “sign” to encompass the authentication or adoption of all records and not just writings. **Section 25 and the definition of the term “money” to exclude any medium of exchange in an electronic form.** **Sections 28, 38-41, 52, 55-57, 62, 63, 68, 72-75, 77, 78, 81, 82 and 85-90** of this bill make conforming changes to account for the new definition of “sign.” **Sections 25, 31-35, 44, 86, 94-100 and 102-108** of this bill replace the term “writing” with “record” and make certain other changes to allow for certain documents and communications to take a form other than a written or otherwise tangible form.

Existing law contains Article 2 of the Code, the uniform law governing sales. (NRS 104.2101-104.2725) **Sections 29 and 30** of this bill define the term “hybrid transaction” and describe the extent to which Article 2 governs hybrid transactions.

Existing law contains Article 3 of the Code, the uniform law governing negotiable instruments. (NRS 104.3101-104.3605) **Section 36** of this bill authorizes a negotiable instrument to contain certain provisions specifying which laws govern the instrument and how certain disputes will be resolved. **Section 37** of this bill expands the definition of “issue” to include certain electronic transmissions. **Section 38** of this bill removes certain requirements relating to the generation and form of a signature that makes a person liable on

a negotiable instrument. **Section 39** provides that an obligation to pay a check is not discharged solely by the destruction of the check, under certain circumstances.

Existing law contains Article 5 of the Code, the uniform law governing letters of credit. (NRS 104.5101-104.5118) **Section 41** prescribes the method for determining the location of a branch of a bank for certain purposes.

Existing law contains Article 7 of the Code, the uniform law governing warehouse receipts, bills of lading and other documents of title. (NRS 104.7101-104.7603) **Section 42** of this bill removes certain definitions made unnecessary by the revisions made in **section 25**. **Section 43** of this bill: (1) makes various changes related to the process for determining when a person has control of an electronic document of title after a certain system evidences that the document was issued or transferred to the person; and (2) defines when a person is deemed to have obtained control of an electronic document of title through another person.

Existing law contains Article 8 of the Code, the uniform law governing investment securities. (NRS 104.8101-104.8511) **Section 44** revises certain definitions for the purposes of Article 8. **Section 45** of this bill provides that a controllable account, controllable electronic record or controllable payment intangible is a financial asset only to the extent that a securities intermediary and an entitled person agree that it should be treated as a financial asset. **Section 46** of this bill revises the circumstances under which a purchaser is deemed to have control of a security entitlement that is controlled by another person and makes various related changes. **Section 47** of this bill establishes that the local law of the jurisdiction of the issuer or of the securities intermediary governs certain matters related to a security or security entitlement. **Section 48** of this bill makes technical changes to certain provisions governing protected purchasers.

Existing law contains Article 9 of the Code, the uniform law governing secured transactions. (NRS 104.9101-104.9717) **Section 49** of this bill revises certain definitions relating to secured transactions and defines certain terms relating to controllable electronic records. **Sections ~~22~~ 3, 50 and 51** of this bill set forth the circumstances under which a person is deemed to have control of ~~electronic money,~~ a controllable electronic record, a deposit account or an authoritative electronic copy of a record evidencing chattel paper. **Sections 4, 54-56 and 79** of this bill revise certain rights and duties of a party possessing or controlling certain collateral. **Section 52** identifies the circumstances under which a security interest is enforceable against the debtor and third parties with respect to collateral that is controllable electronic records, electronic documents or certain other collateral. **Section 53** of this bill revises the circumstances under which a security interest may attach to certain proceeds.

Sections 5, 6 and 58-60 of this bill revise and establish certain rules for determining the applicable law governing the perfection, the effect of perfection or nonperfection and the priority of a security interest in certain property. **Sections 7, 8 and 61-65** of this bill revise certain provisions related

to the perfection of certain security interests and prescribe certain methods for perfecting those security interests. **Sections 66, 67 and 71** of this bill revise the circumstances under which a buyer or lessee of goods, a buyer of an electronic document, chattel paper, controllable electronic record, controllable account or controllable payment intangible or a transferee of ~~intangible or electronic~~ money takes free of a security interest or leasehold interest. **Section 69** of this bill revises the circumstances under which a purchaser of chattel paper has priority over a security interest in the chattel paper. **Section 75** exempts a controllable account or controllable payment intangible from certain requirements relating to an assignment of debt. **Section 80** of this bill provides that a secured party that obtains control of a controllable account, controllable electronic record or controllable payment intangible owes a duty to a debtor or obligor under certain circumstances. **Section 91** of this bill provides that certain provisions which limit the liability of a secured party do not apply to a secured party that obtains control of a controllable account, controllable electronic record or controllable payment intangible under certain circumstances. **Sections 83 and 84** of this bill make certain revisions to the content and form of notification before the disposition of certain collateral.

Existing law provides that, with certain exceptions, any rule of law, statute, regulation or term in an agreement between an account debtor and an assignor or in a promissory note that imposes certain restrictions on the assignment of a security interest in certain collateral is ineffective. (NRS 104.9406, 104.9408) **Sections 75 and 76**, which enact the 2018 amendments to Article 9, provide that those provisions do not apply to a security interest in an ownership interest in a general partnership, limited partnership or limited-liability company.

Existing law contains Article 2A of the Code, the uniform law governing leases. (NRS 104A.2101-104A.2532) **Section 93** of this bill defines the term “hybrid lease” to mean a single transaction involving a lease of goods and the provision of services or the sale, lease or license of certain property. **Section 92** of this bill describes the extent to which Article 2A governs hybrid leases.

Existing law contains Article 4A of the Code, the uniform law governing funds transfers. (NRS 104A.4101-104A.4507) **Section 101** of this bill authorizes the imposition of certain obligations in a security procedure established by agreement between a customer and a receiving bank.

Sections 109-112 of this bill make conforming changes to internal references to sections amended in this bill.

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

Section 1. Chapter 104 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 24, inclusive, of this act.

Sec. 2. ~~1. A person has control of electronic money if:~~

~~— (a) The electronic money, a record attached to or logically associated with the electronic money or a system in which the electronic money is recorded gives the person;~~

~~— (1) Power to avail itself of substantially all the benefit from the electronic money; and~~

~~— (2) Exclusive power, subject to subsection 2, to:~~

~~— (I) Prevent others from availing themselves of substantially all the benefit from the electronic money; and~~

~~— (II) Transfer control of the electronic money to another person or cause another person to obtain control of other electronic money as a result of the transfer of the electronic money; and~~

~~— (b) The electronic money, a record attached to or logically associated with the electronic money or a system in which the electronic money is recorded enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as having the powers under paragraph (a).~~

~~2. Subject to subsection 3, a power is exclusive under subparagraph (2) of paragraph (a) of subsection 1, even if:~~

~~— (a) The electronic money, a record attached to or logically associated with the electronic money or a system in which the electronic money is recorded limits the use of the electronic money or has a protocol programmed to cause a change, including a transfer or loss of control; or~~

~~— (b) The power is shared with another person.~~

~~3. A power of a person is not shared with another person under paragraph (b) of subsection 2 and the person's power is not exclusive if:~~

~~— (a) The person can exercise a power only if the power also is exercised by the other person; and~~

~~— (b) The other person:~~

~~— (1) Can exercise the power without exercise of the power by the person;~~

~~or~~

~~— (2) Is the transferor to the person of an interest in the electronic money.~~

~~4. If a person has the powers specified in subparagraph (2) of paragraph (a) of subsection 1, the powers are presumed to be exclusive.~~

~~5. A person has control of electronic money if another person, other than the transferor to the person of an interest in the electronic money:~~

~~— (a) Has control of the electronic money and acknowledges that it has control on behalf of the person; or~~

~~— (b) Obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person.]~~

~~(Deleted by amendment.)~~

Sec. 3. 1. A secured party has control of a controllable electronic record as provided in section 13 of this act.

2. A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable

electronic record that evidences the controllable account or controllable payment intangible.

Sec. 4. 1. A person that has control under NRS 104.9104 or 104.9105 ~~for section 2 of this act~~ is not required to acknowledge that it has control on behalf of another person.

2. If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

Sec. 5. 1. Except as provided in subsection 4, if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the law of the chattel paper's jurisdiction governs perfection, the effect of perfection or nonperfection and the priority of a security interest in the chattel paper, even if a transaction does not bear any relation to the chattel paper's jurisdiction.

2. The following rules determine the chattel paper's jurisdiction under this section:

(a) If the authoritative electronic copy of the record evidencing chattel paper, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this Article or the Uniform Commercial Code, that jurisdiction is the chattel paper's jurisdiction.

(b) If paragraph (a) does not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this Article or the Uniform Commercial Code, that jurisdiction is the chattel paper's jurisdiction.

(c) If paragraphs (a) and (b) do not apply and the authoritative electronic copy, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

(d) If paragraphs (a), (b) and (c) do not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

(e) If paragraphs (a) to (d), inclusive, do not apply, the chattel paper's jurisdiction is the jurisdiction in which the debtor is located.

3. If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic copy,

while the authoritative tangible copy of the record evidencing chattel paper is located in a jurisdiction, the law of that jurisdiction governs:

(a) Perfection of a security interest in the chattel paper by possession under section 7 of this act; and

(b) The effect of perfection or nonperfection and the priority of a security interest in the chattel paper.

4. The law of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by filing.

Sec. 6. 1. Except as provided in subsection 2, the law of the controllable electronic record's jurisdiction specified in subsections 3 and 4 of section 15 of this act governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable electronic record and a security interest in a controllable account or controllable payment intangible evidenced by the controllable electronic record.

2. The law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in a controllable account, controllable electronic record or controllable payment intangible by filing; and

(b) Automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible.

Sec. 7. 1. A secured party may perfect a security interest in chattel paper by taking possession of each authoritative tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the chattel paper.

2. A security interest is perfected under subsection 1 not earlier than the time the secured party takes possession and obtains control and remains perfected under subsection 1 only while the secured party retains possession and control.

3. Subsections 3 and 6 to 9, inclusive, of NRS 104.9313 apply to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper.

Sec. 8. A security interest in a controllable account, controllable electronic record or controllable payment intangible held by a secured party having control of the account, electronic record or payment intangible has priority over a conflicting security interest held by a secured party that does not have control.

Sec. 9. This Article may be cited as the Uniform Commercial Code—Controllable Electronic Records.

Sec. 10. 1. In this Article:

(a) "Controllable electronic record" means a record stored in an electronic medium that can be subjected to control under section 13 of this act. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, ~~electronic money,~~ investment property, ~~for~~ a transferable record ~~for~~ or an electronic record

that is currently authorized or adopted by a domestic or foreign government and is not a medium of exchange that was recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by a government.

(b) “Qualifying purchaser” means a purchaser of a controllable electronic record or an interest in a controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

(c) “Transferable record” has the meaning provided for that term in:

(1) Section 201(a)(1) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7021(a)(1), as amended; or

(2) Subsection 1 of NRS 719.330.

(d) “Value” has the meaning provided in subsection 1 of NRS 104.3303, as if references in that subsection to an “instrument” were references to a controllable account, controllable electronic record or controllable payment intangible.

2. The following definitions in Article 9 apply to this Article:

“Account debtor.” NRS 104.9102.

“Chattel paper.” NRS 104.9102.

“Controllable account.” NRS 104.9102.

“Controllable payment intangible.” NRS 104.9102.

“Deposit account.” NRS 104.9102.

~~“Electronic money.” NRS 104.9102.~~

“Investment property.” NRS 104.9102.

3. Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 11. 1. If there is a conflict between this Article and Article 9, Article 9 governs.

2. A transaction subject to this Article is subject to:

(a) Any applicable rule of law that establishes a different rule for consumers;

(b) Any other statute or regulation that regulates the rates, charges, agreements and practices for loans, credit sales or other extensions for credit; and

(c) Any consumer-protection statute or regulation.

Sec. 12. 1. This section applies to the acquisition and purchase of rights in a controllable account or controllable payment intangible, including the rights and benefits under subsections 3, 4, 5, 7 and 8 of a purchaser and qualifying purchaser, in the same manner this section applies to a controllable electronic record.

2. To determine whether a purchaser of a controllable account or a controllable payment intangible is a qualifying purchaser, the purchaser obtains control of the account or payment intangible if it obtains control of

the controllable electronic record that evidences the account or payment intangible.

3. *Except as provided in this section, law other than this Article determines whether a person acquires a right in a controllable electronic record and the right the person acquires.*

4. *A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer, except that a purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.*

5. *A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of a property right in the controllable electronic record.*

6. *Except as provided in subsections 1 and 5 for a controllable account and a controllable payment intangible or law other than this Article, a qualifying purchaser takes a right to payment, right to performance or other interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance or other interest in property.*

7. *An action may not be asserted against a qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable electronic record, whether the action is framed in conversion, replevin, constructive trust, equitable lien or other theory.*

8. *Filing of a financing statement under Article 9 is not notice of a claim of a property right in a controllable electronic record.*

Sec. 13. 1. *A person has control of a controllable electronic record if the electronic record, a record attached to or logically associated with the electronic record or a system in which the electronic record is recorded:*

(a) Gives the person:

(1) The power to avail itself of substantially all the benefit from the electronic record; and

(2) Exclusive power, subject to subsection 2, to:

(I) Prevent others from availing themselves of substantially all the benefit from the electronic record; and

(II) Transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and

(b) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as having the powers specified in paragraph (a).

2. *Subject to subsection 3, a power is exclusive under sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (a) of subsection 1, even if:*

(a) The controllable electronic record, a record attached to or logically associated with the electronic record or a system in which the electronic

record is recorded limits the use of the electronic record or has a protocol programmed to cause a change, including a transfer or loss of control or a modification of benefits afforded by the electronic record; or

(b) The power is shared with another person.

3. A power of a person is not shared with another person under paragraph (b) of subsection 2 and the person's power is not exclusive if:

(a) The person can exercise the power only if the power also is exercised by the other person; and

(b) The other person:

(1) Can exercise the power without exercise of the power by the person;

or

(2) Is the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record.

4. If a person has the powers specified in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (a) of subsection 1, the powers are presumed to be exclusive.

5. A person has control of a controllable electronic record if another person, other than the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record:

(a) Has control of the electronic record and acknowledges that it has control on behalf of the person; or

(b) Obtains control of the electronic record after having acknowledged that it will obtain control of the electronic record on behalf of the person.

6. A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

7. If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this Article or Article 9 otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

Sec. 14. 1. An account debtor on a controllable account or controllable payment intangible may discharge its obligation by paying:

(a) The person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or

(b) Except as provided in subsection 2, a person that formerly had control of the controllable electronic record.

2. Subject to subsection 4, the account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

(a) Is signed by a person that formerly had control or the person to which control was transferred;

(b) Reasonably identifies the controllable account or controllable payment intangible;

(c) Notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;

(d) Identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office or account number; and

(e) Provides a commercially reasonable method by which the account debtor is to pay the transferee.

3. *After receipt of a notification that complies with subsection 2, the account debtor may discharge its obligation by paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.*

4. *Subject to subsection 8, notification is ineffective under subsection 2:*

(a) Unless, before the notification is sent, the account debtor and the person that, at that time, had control of the controllable electronic record that evidences the controllable account or controllable payment intangible agree in a signed record to a commercially reasonable method by which a person may furnish reasonable proof that control has been transferred;

(b) To the extent an agreement between the account debtor and seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this Article; or

(c) At the option of an account debtor, if the notification notifies the account debtor to:

(1) Divide a payment;

(2) Make less than the full amount of an installment or other periodic payment; or

(3) Pay any part of a payment by more than one method or to more than one person.

5. *Subject to subsection 8, if requested by the account debtor, the person giving the notification under subsection 2 seasonably shall furnish reasonable proof, using the method in the agreement referred to in paragraph (a) of subsection 4, that control of the controllable electronic record has been transferred. Unless the person complies with the request, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a notification under subsection 2.*

6. *A person furnishes reasonable proof under subsection 5 that control has been transferred if the person demonstrates, using the method in the agreement referred to in paragraph (a) of subsection 4, that the transferee has the power to:*

(a) Avail itself of substantially all the benefit from the controllable electronic record;

(b) Prevent others from availing themselves of substantially all the benefit from the controllable electronic record; and

(c) *Transfer the powers specified in paragraphs (a) and (b) to another person.*

7. *Subject to subsection 8, an account debtor may not waive or vary its rights under paragraph (a) of subsection 4 and subsection 5, or its option under paragraph (c) of subsection 4.*

8. *This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family or household purposes.*

Sec. 15. 1. *Except as provided in subsection 2, the law of a controllable electronic record's jurisdiction governs a matter covered by this Article.*

2. *For a controllable electronic record that evidences a controllable account or controllable payment intangible, the law of the controllable electronic record's jurisdiction governs a matter covered by section 14 of this act unless an effective agreement determines that the law of another jurisdiction governs.*

3. *The following rules determine a controllable electronic record's jurisdiction under this section:*

(a) *If the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this Article or the Uniform Commercial Code, that jurisdiction is the controllable electronic record's jurisdiction.*

(b) *If paragraph (a) does not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this Article or the Uniform Commercial Code, that jurisdiction is the controllable electronic record's jurisdiction.*

(c) *If paragraphs (a) and (b) do not apply and the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.*

(d) *If paragraphs (a), (b) and (c) do not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that the controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.*

(e) *If paragraphs (a) to (d), inclusive, do not apply, the controllable electronic record's jurisdiction is the District of Columbia.*

4. *If paragraph (e) of subsection 3 applies and Article 12 is not in effect in the District of Columbia without material modification, the governing law*

for a matter covered by this Article is the law of the District of Columbia as though Article 12 were in effect in the District of Columbia without material modification. In this subsection, “Article 12” means Article 12 of the Uniform Commercial Code Amendments (2022).

5. To the extent subsections 1 and 2 provide that the law of the controllable electronic record’s jurisdiction governs a matter covered by this Article, that law governs even if a matter or transaction to which the matter relates does not bear any relation to the controllable electronic record’s jurisdiction.

6. The rights acquired under section 12 of this act by a purchaser or qualifying purchaser are governed by the law applicable under this section at the time of purchase.

Sec. 16. This Article may be cited as Transitional Provisions for Uniform Commercial Code Amendments (2022).

Sec. 17. 1. In this Article:

(a) “Article 12” means Article 12 of the Uniform Commercial Code.

(b) “Article 12 property” means a controllable account, controllable electronic record or controllable payment intangible.

2. The following definitions in other Articles of the Uniform Commercial Code apply to this Article:

“Controllable account.” NRS 104.9102.

“Controllable electronic record.” Section 10 of this act.

“Controllable payment intangible.” NRS 104.9102.

~~*“Electronic money.” NRS 104.9102.*~~

“Financing statement.” NRS 104.9102.

3. Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 18. Except as provided in Part 3, a transaction validly entered into before October 1, 2023, and the rights, duties and interests flowing from the transaction remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by law other than the Uniform Commercial Code or, if applicable, the Uniform Commercial Code, as though this act had not taken effect.

Sec. 19. 1. Except as provided in this Part, Article 9, as amended by this act and Article 12, apply to a transaction, lien or other interest in property, even if the transaction, lien or interest was entered into, created or acquired before October 1, 2023.

2. Except as provided in subsection 3 and sections 20 to 24, inclusive, of this act:

(a) A transaction, lien or interest in property that was validly entered into, created or transferred before October 1, 2023, and was not governed by the Uniform Commercial Code, but would be subject to Article 9, as amended by this act, or Article 12 if it had been entered into, created or transferred on or after October 1, 2023, including the rights, duties and interests flowing from

the transaction, lien or interest, remains valid on and after October 1, 2023; and

(b) The transaction, lien or interest may be terminated, completed, consummated and enforced as required or permitted by this act or by the law that would apply if this act had not taken effect.

3. This act does not affect an action, case or proceeding commenced before October 1, 2023.

Sec. 20. 1. A security interest that is enforceable and perfected immediately before October 1, 2023, is a perfected security interest under this act if, on October 1, 2023, the requirements for enforceability and perfection under this act are satisfied without further action.

2. If a security interest is enforceable and perfected immediately before October 1, 2023, but the requirements for enforceability or perfection under this act are not satisfied on October 1, 2023, the security interest:

(a) Is a perfected security interest until the earlier of the time perfection would have ceased under the law in effect immediately before October 1, 2023, or July 1, 2025;

(b) Remains enforceable thereafter only if the security interest satisfies the requirements for enforceability under NRS 104.9203, as amended by section 52 of this act, before July 1, 2025; and

(c) Remains perfected thereafter only if the requirements for perfection under this act are satisfied before the time specified in paragraph (a).

Sec. 21. A security interest that is enforceable immediately before October 1, 2023, but is unperfected at that time:

1. Remains an enforceable security interest until July 1, 2025;

2. Remains enforceable thereafter if the security interest becomes enforceable under NRS 104.9203, as amended by section 52 of this act, on October 1, 2023, or before July 1, 2025; and

3. Becomes perfected:

(a) Without further action, on October 1, 2023, if the requirements for perfection under this act are satisfied before or at that time; or

(b) When the requirements for perfection are satisfied if the requirements are satisfied after that time.

Sec. 22. 1. If action, other than the filing of a financing statement, is taken before October 1, 2023, and the action would have resulted in perfection of the security interest had the security interest become enforceable before October 1, 2023, the action is effective to perfect a security interest that attaches under this act before July 1, 2025. An attached security interest becomes unperfected on July 1, 2025 unless the security interest becomes a perfected security interest under this act before July 1, 2025.

2. The filing of a financing statement before October 1, 2023, is effective to perfect a security interest on October 1, 2023, to the extent the filing would satisfy the requirements for perfection under this act.

3. *The taking of an action before October 1, 2023, is sufficient for the enforceability of a security interest on October 1, 2023, if the action would satisfy the requirements for enforceability under this act.*

Sec. 23. 1. *Subject to subsections 2 and 3, this act determines the priority of conflicting claims to collateral.*

2. *Subject to subsection 3, if the priorities of claims to collateral were established before October 1, 2023, Article 9, as in effect before October 1, 2023, determines priority.*

3. *On July 1, 2025, to the extent the priorities determined by Article 9, as amended by this act, modify the priorities established before October 1, 2023, the priorities of claims to Article 12 property ~~and electronic money~~ established before October 1, 2023, cease to apply.*

Sec. 24. 1. *Subject to subsections 2 and 3, Article 12 determines the priority of conflicting claims to Article 12 property when the priority rules of Article 9, as amended by this act, do not apply.*

2. *Subject to subsection 3, when the priority rules of Article 9, as amended by this act, do not apply and the priorities of claims to Article 12 property were established before October 1, 2023, law other than Article 12 determines priority.*

3. *When the priority rules of Article 9, as amended by this act, do not apply, to the extent the priorities determined by this act modify the priorities established before October 1, 2023, the priorities of claims to Article 12 property established before October 1, 2023, cease to apply on July 1, 2025.*

Sec. 25. NRS 104.1201 is hereby amended to read as follows:

104.1201 1. Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other Articles of the Uniform Commercial Code that apply to particular Articles or parts thereof, have the meanings stated.

2. Subject to definitions contained in other Articles of the Uniform Commercial Code that apply to particular Articles or parts thereof:

(a) “Action,” in the sense of a judicial proceeding, includes recoupment, counterclaim, set off, suit in equity and any other proceeding in which rights are determined.

(b) “Aggrieved party” means a party entitled to pursue a remedy.

(c) “Agreement,” as distinguished from “contract,” means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in NRS 104.1303.

(d) “Bank” means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union and trust company.

(e) “Bearer” means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title or certificated security that is payable to bearer or endorsed in blank.

(f) “Bill of lading” means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(g) “Branch” includes a separately incorporated foreign branch of a bank.

(h) “Burden of establishing” a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(i) “Buyer in ordinary course of business” means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller’s own usual or customary practices. A person that sells oil, gas or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 may be a buyer in ordinary course of business. “Buyer in ordinary course of business” does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(j) “Conspicuous,” with reference to a term, means so written, displayed or presented that, ***based on the totality of the circumstances***, a reasonable person against which it is to operate ought to have noticed it. Whether a term is “conspicuous” or not is a decision for the court. ~~Conspicuous terms include the following:~~

~~—— (1) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font or color to the surrounding text of the same or lesser size; and~~

~~—— (2) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.]~~

(k) “Consumer” means a natural person who enters into a transaction primarily for personal, family or household purposes.

(l) “Contract,” as distinguished from “agreement,” means the total legal obligation that results from the parties’ agreement as determined by the Uniform Commercial Code as supplemented by any other applicable laws.

(m) “Creditor” includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor’s or assignor’s estate.

(n) “Defendant” includes a person in the position of defendant in a counterclaim, cross-claim or third-party claim.

(o) “Delivery,” with respect to an electronic document of title , means voluntary transfer of control and , with respect to an instrument, a tangible document of title or ***an authoritative tangible copy of a record evidencing*** chattel paper, means voluntary transfer of possession.

(p) “Document of title” means a record:

(1) That in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold and dispose of the record and the goods the record covers; and

(2) That purports to be issued by or addressed to a bailee and to cover goods in the bailee’s possession which are either identified or are fungible portions of an identified mass.

➡ The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(q) ***“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.***

(r) “Fault” means a default, breach or wrongful act or omission.

~~{(s)}~~ (s) “Fungible goods” means:

(1) Goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(2) Goods that by agreement are treated as equivalent.

~~{(t)}~~ (t) “Genuine” means free of forgery or counterfeiting.

~~{(u)}~~ (u) “Good faith,” except as otherwise provided in Article 5, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

~~{(v)}~~ (v) “Holder” means:

(1) The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(2) The person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(3) The person in control , ***other than pursuant to subsection 7 of NRS 104.7106***, of a negotiable electronic document of title.

~~{(w)}~~ (w) “Insolvency proceeding” includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

~~{(x)}~~ (x) “Insolvent” means:

(1) Having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

- (2) Being unable to pay debts as they become due; or
- (3) Being insolvent within the meaning of federal bankruptcy law.

~~{(x)}~~ (y) “Money” means a medium of exchange *that is* currently authorized or adopted by a domestic or foreign government ~~{(y)}~~ ***and is not in an electronic form.*** The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries. ~~*[The term does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government.]*~~

~~{(y)}~~ (z) “Organization” means a person other than a natural person.

~~{(z)}~~ (aa) “Party,” as distinguished from “third party,” means a person that has engaged in a transaction or made an agreement subject to the Uniform Commercial Code.

~~{(aa)}~~ (bb) “Person” means a natural person, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, ~~{(bb)}~~ ~~public corporation,~~ or any other legal or commercial entity. ***The term includes a protected series, however denominated, of an entity if the protected series is established under law other than the Uniform Commercial Code that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.***

~~{(bb)}~~ (cc) “Present value” means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

~~{(cc)}~~ (dd) “Purchase” means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift or any other voluntary transaction creating an interest in property.

~~{(dd)}~~ (ee) “Purchaser” means a person that takes by purchase.

~~{(ee)}~~ (ff) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~{(ff)}~~ (gg) “Remedy” means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

~~{(gg)}~~ (hh) “Representative” means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate.

~~{(hh)}~~ (ii) “Right” includes remedy.

~~{(ii)}~~ (jj) “Security interest” means an interest in personal property or fixtures which secures payment or performance of an obligation. “Security interest” includes any interest of a consignor and a buyer of accounts, chattel

paper, a payment intangible or a promissory note in a transaction that is subject to Article 9. “Security interest” does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under NRS 104.2401, but a buyer may also acquire a “security interest” by complying with Article 9. Except as otherwise provided in NRS 104.2505, the right of a seller or lessor of goods under Article 2 or 2A to retain or acquire possession of the goods is not a “security interest,” but a seller or lessor may also acquire a “security interest” by complying with Article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under NRS 104.2401 is limited in effect to a reservation of a “security interest.” Whether a transaction in the form of a lease creates a “security interest” is determined pursuant to NRS 104.1203.

~~{(jj)}~~ “~~Send~~”

(kk) “*Send*,” in connection with a ~~{writing,}~~ record or ~~{notice}~~ *notification*, means:

(1) To deposit in the mail, ~~{or}~~ deliver for transmission *or transmit* by any other usual means of communication, with postage or cost of transmission provided for and ~~{properly}~~ addressed ~~{and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none}~~ to any address reasonable under the circumstances; or

(2) ~~{In any other way to}~~ *To* cause *the record or notification* to be received ~~{any record or notice}~~ within the time it would have ~~{arrived}~~ *been received* if properly sent ~~{-}~~.

~~{(kk)}~~ “Signed” includes using any symbol executed or adopted with present intention to adopt or accept a writing. ~~{-}~~ *under subparagraph (1).*

(ll) “*Sign*” means, with present intent to authenticate or adopt a record:

(1) *Execute or adopt a tangible symbol; or*

(2) *Attach to or logically associate with the record an electronic symbol, sound or process.*

↪ “Signed,” “signing” and “signature” have corresponding meanings.

(mm) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~{(nn)}~~ (nn) “Surety” includes a guarantor or other secondary obligor.

~~{(nn)}~~ (oo) “Term” means a portion of an agreement that relates to a particular matter.

~~{(oo)}~~ (pp) “Unauthorized signature” means a signature made without actual, implied or apparent authority. The term includes a forgery.

~~{(pp)}~~ (qq) “Warehouse receipt” means a document of title issued by a person engaged in the business of storing goods for hire.

~~{(qq)}~~ (rr) “Writing” includes printing, typewriting or any other intentional reduction to tangible form. “Written” has a corresponding meaning.

Sec. 26. NRS 104.1204 is hereby amended to read as follows:

104.1204 Except as otherwise provided in Articles 3, 4, ~~{and}~~ 5 ~~{-}~~ and 12, a person gives value for rights if the person acquires them:

1. In return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

2. As security for, or in total or partial satisfaction of, a preexisting claim;

3. By accepting delivery under a preexisting contract for purchase; or

4. In return for any consideration sufficient to support a simple contract.

Sec. 27. NRS 104.1301 is hereby amended to read as follows:

104.1301 1. Except as otherwise provided in this section, when a transaction bears a reasonable relation to this State and also to another state or nation the parties may agree that the law either of this State or of such other state or nation shall govern their rights and duties.

2. In the absence of an agreement effective under subsection 1, and except as otherwise provided in subsection 3, the Uniform Commercial Code applies to transactions bearing an appropriate relation to this State.

3. If one of the following provisions of the Uniform Commercial Code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

(a) NRS 104.2402;

(b) NRS 104.4102;

(c) NRS 104.5116;

(d) NRS 104.8110;

(e) NRS 104.9301 to 104.9307, inclusive;

(f) NRS 104A.2105 and 104A.2106; ~~and~~

(g) NRS 104A.4507 ~~[-]; and~~

(h) Section 15 of this act.

Sec. 28. NRS 104.1306 is hereby amended to read as follows:

104.1306 A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in ~~[an authenticated]~~ **a signed** record.

Sec. 29. NRS 104.2102 is hereby amended to read as follows:

104.2102 **1.** Unless the context otherwise requires, **and except as provided in subsection 3**, this article applies to transactions in goods ~~[-; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sales is intended to operate only as a security transaction nor does this article impair]~~ **and, in the case of a hybrid transaction, it applies to the extent provided in subsection 2.**

2. In a hybrid transaction:

(a) If the sale-of-goods aspects do not predominate, only the provisions of this Article which relate primarily to the sale-of-goods aspects of the transactions apply, and the provisions that relate primarily to the transaction as a whole do not apply.

(b) If the sale-of-goods aspects predominate, this Article applies to the transaction but does not preclude application in appropriate circumstances of other law to the aspects of the transaction which do not relate to the sale of goods.

3. This Article does not:

(a) *Apply to a transaction that, even though in the form of an unconditional contract to sell or present sale, operates only to create a security interest; or*

(b) *Impair or repeal any statute regulating sales to consumers, farmers or other specified classes of buyers.*

Sec. 30. NRS 104.2106 is hereby amended to read as follows:

104.2106 1. In this article unless the context otherwise requires “contract” and “agreement” are limited to those relating to the present or future sale of goods. “Contract for sale” includes both a present sale of goods and a contract to sell goods at a future time. A “sale” consists in the passing of title from the seller to the buyer for a price (NRS 104.2401). A “present sale” means a sale which is accomplished by the making of the contract.

2. Goods or conduct including any part of a performance are “conforming” or conform to the contract when they are in accordance with the obligations under the contract.

3. “Termination” occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On “termination” all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

4. “Cancellation” occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of “termination” except that the cancelling party also retains any remedy for breach of the whole contract or any unperformed balance.

5. “Hybrid transaction” means a single transaction involving a sale of goods and:

(a) *The provision of services;*

(b) *A lease of other goods; or*

(c) *A sale, lease or license of property other than goods.*

Sec. 31. NRS 104.2201 is hereby amended to read as follows:

104.2201 1. Except as otherwise provided in this section a contract for the sale of goods for the price of \$500 or more is not enforceable by way of action or defense unless there is ~~some writing~~ **a record** sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by ~~this or her~~ **the party’s** authorized agent or broker. A ~~writing~~ **record** is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this subsection beyond the quantity of goods shown in ~~such writing~~ **the record**.

2. Between merchants if within a reasonable time a ~~writing~~ **record** in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection 1 against ~~such~~ **the** party unless ~~written~~ notice **in a record** of objection to its contents is given within 10 days after it is received.

3. A contract which does not satisfy the requirements of subsection 1 but which is valid in other respects is enforceable:

(a) If the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) If the party against whom enforcement is sought admits in his or her pleading, testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) With respect to goods for which payment has been made and accepted or which have been received and accepted (NRS 104.2606).

Sec. 32. NRS 104.2202 is hereby amended to read as follows:

104.2202 Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in ~~writing~~ **a record** intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

1. By course of performance, course of dealing or usage of trade (NRS 104.1303); and

2. By evidence of consistent additional terms unless the court finds the ~~writing~~ **record** to have been intended also as a complete and exclusive statement of the terms of the agreement.

Sec. 33. NRS 104.2203 is hereby amended to read as follows:

104.2203 The affixing of a seal to a ~~writing~~ **record** evidencing a contract for sale or an offer to buy or sell goods does not constitute the ~~writing~~ **record** a sealed instrument and the law with respect to sealed instruments does not apply to such contract or offer.

Sec. 34. NRS 104.2205 is hereby amended to read as follows:

104.2205 An offer by a merchant to buy or sell goods in a signed ~~writing~~ **record** which by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed 3 months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Sec. 35. NRS 104.2209 is hereby amended to read as follows:

104.2209 1. An agreement modifying a contract within this Article needs no consideration to be binding.

2. A signed agreement which excludes modification or rescission except by a signed writing **or other signed record** cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

3. The requirements of the statute of frauds section of this Article (NRS 104.2201) must be satisfied if the contract as modified is within its provisions.

4. Although an attempt at modification or rescission does not satisfy the requirements of subsection 2 or 3 it can operate as a waiver.

5. A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

Sec. 36. NRS 104.3104 is hereby amended to read as follows:

104.3104 1. Except as otherwise provided in subsections 3 and 4, “negotiable instrument” means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(a) Is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(b) Is payable on demand or at a definite time; and

(c) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain:

(1) An undertaking or power to give, maintain or protect collateral to secure payment;

(2) An authorization or power to the holder to confess judgment or realize on or dispose of collateral; ~~for~~

(3) A waiver of the benefit of any law intended for the advantage or protection of an obligor ~~for~~;

(4) A term that specifies the law that governs the promise or order; or

(5) An undertaking to resolve in a specified forum a dispute concerning the promise or order.

2. “Instrument” means a negotiable instrument.

3. An order that meets all of the requirements of subsection 1, except paragraph (a), and otherwise falls within the definition of “check” in subsection 6 is a negotiable instrument and a check.

4. A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this article.

5. An instrument is a “note” if it is a promise and is a “draft” if it is an order. If an instrument falls within the definition of both “note” and “draft,” a person entitled to enforce the instrument may treat it as either.

6. “Check” means:

(a) A draft, other than a documentary draft, payable on demand and drawn on a bank; or

(b) A cashier’s check or teller’s check.

↪ An instrument may be a check even though it is described on its face by another term, such as “money order.”

7. “Cashier’s check” means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

8. “Teller’s check” means a draft drawn by a bank:

- (a) On another bank; or
- (b) Payable at or through a bank.

9. “Traveler’s check” means an instrument that:

- (a) Is payable on demand;
- (b) Is drawn on or payable at or through a bank;
- (c) Is designated by the term “traveler’s check” or by a substantially similar term; and
- (d) Requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

10. “Certificate of deposit” means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

Sec. 37. NRS 104.3105 is hereby amended to read as follows:

104.3105 1. “Issue” means ~~the~~ :

(a) *The* first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person ~~[-]~~; or

(b) *If agreed by the payee, the first transmission by the drawer to the payee of an image of an item and information derived from the item that enables the depository bank to collect the item by transferring or presenting under federal law an electronic check.*

2. An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

3. “Issuer” applies to issued and unissued instruments and means a maker or drawer of an instrument.

Sec. 38. NRS 104.3401 is hereby amended to read as follows:

104.3401 ~~[-]~~ A person is not liable on an instrument unless the person:

~~[(a)]~~ 1. Signed the instrument; or

~~[(b)]~~ 2. Is represented by an agent or representative who signed the instrument and the signature is binding on him or her under NRS 104.3402.

~~[2. A signature may be made manually or by means of a device or machine, and by the use of any name, including a trade or assumed name, or by a word, mark, or symbol executed or adopted by a person with present intention to authenticate a writing.]~~

Sec. 39. NRS 104.3604 is hereby amended to read as follows:

104.3604 1. A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument:

(a) By an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge; or

(b) By agreeing not to sue or otherwise renouncing rights against the party by a signed record.

↪ ***The obligation of a party to pay a check is not discharged solely by destruction of the check in connection with a process in which information is extracted from the check and an image of the check is made and, subsequently, the information and image are transmitted for payment.***

2. Cancellation or striking out of an endorsement pursuant to subsection 1 does not affect the status and rights of a party derived from the endorsement.

~~[3. As used in this section, "signed," with respect to a record that is not a writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record.]~~

Sec. 40. NRS 104.5104 is hereby amended to read as follows:

104.5104 A letter of credit, confirmation, advice, transfer, amendment or cancellation may be issued in any form that is a ***signed*** record . ~~[and is authenticated by a signature or in accordance with the agreement of the parties or the standard practice referred to in subsection 5 of NRS 104.5108.]~~

Sec. 41. NRS 104.5116 is hereby amended to read as follows:

104.5116 1. The liability of an issuer, nominated person or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed ~~[or otherwise authenticated]~~ by the affected parties ~~[in the manner provided in NRS 104.5104]~~ or by a provision in his or her letter of credit, confirmation or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

2. Unless subsection 1 applies, the liability of an issuer, nominated person or adviser for action or omission is governed by the law of the jurisdiction in which he or she is located. The issuer, nominated person or adviser for action or omission is considered to be located at the address indicated in his or her undertaking. If more than one address is indicated, he or she is considered to be located at the address from which his or her undertaking was issued.

3. For the purpose of jurisdiction, choice of law and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under ~~[this]~~ subsection ~~[.]~~ 4.

~~[3.]~~ 4. ***A branch of a bank is considered to be located at the address indicated in the branch's undertaking. If more than one address is indicated,***

the branch is considered to be located at the address from which the undertaking was issued.

5. Except as otherwise provided in this subsection, the liability of an issuer, nominated person or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation or other undertaking is expressly made subject. If:

- (a) This article would govern the liability of an issuer, nominated person or adviser under subsection 1 or 2;
- (b) The relevant undertaking incorporates rules of custom or practice; and
- (c) There is conflict between this article and those rules as applied to that undertaking,

↳ those rules govern except to the extent of any conflict with the nonvariable provisions specified in subsection 3 of NRS 104.5103.

~~{4-}~~ 6. If there is conflict between this article and article 3, 4, 4A or 9, this article governs.

~~{5-}~~ 7. The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection 1.

Sec. 42. NRS 104.7102 is hereby amended to read as follows:

104.7102 1. In this Article, unless the context otherwise requires:

(a) “Bailee” means a person that by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.

(b) “Carrier” means a person that issues a bill of lading.

(c) “Consignee” means a person named in a bill of lading to which or to whose order the bill promises delivery.

(d) “Consignor” means a person named in a bill of lading as the person from whom the goods have been received for shipment.

(e) “Delivery order” means a record that contains an order to deliver goods directed to a warehouse, carrier or other person that in the ordinary course of business issues warehouse receipts or bills of lading.

(f) “Goods” means all things that are treated as movable for the purposes of a contract for storage or transportation.

(g) “Issuer” means a bailee that issues a document of title or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for whom an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer’s instructions.

(h) “Person entitled under the document” means the holder, in the case of a negotiable document of title, or the person to whom delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(i) ~~["Sign" means, with present intent to authenticate or adopt a record:~~

~~— (1) To execute or adopt a tangible symbol; or~~

~~— (2) To attach to or logically associate with the record an electronic sound, symbol or process.~~

~~(j)~~ "Shipper" means a person that enters into a contract of transportation with a carrier.

~~(k)~~ (j) "Warehouse" means a person engaged in the business of storing goods for hire.

2. Definitions in other Articles applying to this Article and the sections in which they appear are:

(a) "Contract for sale," NRS 104.2106.

(b) "Lessee in the ordinary course of business," NRS 104A.2103.

(c) "Receipt" of goods, NRS 104.2103.

3. In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 43. NRS 104.7106 is hereby amended to read as follows:

104.7106 1. A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to whom the electronic document was issued or transferred.

2. A system satisfies subsection 1, and a person ~~is deemed to have~~ *has* control of an electronic document of title, if the document is created, stored and ~~assigned~~ *transferred* in such a manner that:

(a) A single authoritative copy of the document exists which is unique, identifiable and, except as otherwise provided in paragraphs (d), (e) and (f), unalterable;

(b) The authoritative copy identifies the person asserting control as:

(1) The person to whom the document was issued; or

(2) If the authoritative copy indicates that the document has been transferred, the person to whom the document was most recently transferred;

(c) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) Copies or amendments that add or change an identified ~~assignee~~ *transferee* of the authoritative copy can be made only with the consent of the person asserting control;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

3. *A system satisfies subsection 1, and a person has control of an electronic document of title, if an authoritative electronic copy of the document, a record attached to or logically associated with the electronic copy or a system in which the electronic copy is recorded:*

(a) *Enables the person readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;*

(b) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as the person to which each authoritative electronic copy was issued or transferred; and

(c) Gives the person exclusive power, subject to subsection 4, to:

(1) Prevent others from adding or changing the person to which each authoritative electronic copy has been issued or transferred; and

(2) Transfer control of each authoritative electronic copy.

4. Subject to subsection 5, a power is exclusive under subparagraphs (1) and (2) of paragraph (c) of subsection 3, even if:

(a) The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy or a system in which the authoritative electronic copy is recorded limits the use of the document of title or has a protocol that is programmed to cause a change, including a transfer or loss of control; or

(b) The power is shared with another person.

5. A power of a person is not shared with another person under paragraph (b) of subsection 4 and the person's power is not exclusive if:

(a) The person can exercise a power only if the power also is exercised by the other person; and

(b) The other person:

(1) Can exercise the power without exercise of the power by the person;

or

(2) Is the transferor to the person of an interest in the document of title.

6. If a person has the powers specified in subparagraphs (1) and (2) of paragraph (c) of subsection 3, the powers are presumed to be exclusive.

7. A person has control of an electronic document of title if another person, other than the transferor to the person of an interest in the document:

(a) Has control of the document and acknowledges that it has control on behalf of the person; or

(b) Obtains control of the document after having acknowledged that it will obtain control of the document on behalf of the person.

8. A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

9. If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this Article or Article 9 otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

Sec. 44. NRS 104.8102 is hereby amended to read as follows:

104.8102 1. In this Article:

(a) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer or deal with the financial asset.

(b) “Bearer form,” as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an endorsement.

(c) “Broker” means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(d) “Certificated security” means a security that is represented by a certificate.

(e) “Clearing corporation” means:

(1) A person that is registered as a “clearing agency” under the federal securities laws;

(2) A Federal Reserve bank; or

(3) Any other person that provides clearance or settlement with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the requirement of registration, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

(f) “Communicate” means to:

(1) Send a signed ~~writing~~ **record**; or

(2) Transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(g) “Endorsement” means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring or redeeming the security or granting a power to assign, transfer or redeem it.

(h) “Entitlement holder” means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of paragraph (a) or (b) of subsection 2 of NRS 104.8501, the person is the entitlement holder.

(i) “Entitlement order” means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(j) “Financial asset,” except as otherwise provided in NRS 104.8103, means:

(1) A security;

(2) An obligation of a person or a share, participation or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(3) Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article.

↪ As context requires, the term means the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate or a security entitlement.

(k) "Instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

(l) "Registered form," as applied to a certificated security, means a form in which:

(1) The security certificate specifies a person entitled to the security; and

(2) A transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(m) "Securities intermediary" means:

(1) A clearing corporation; or

(2) A person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(n) "Security," except as otherwise provided in NRS 104.8103, means an obligation of an issuer or a share, participation or other interest in an issuer or in property or an enterprise of an issuer:

(1) Which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(2) Which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests or obligations; and

(3) Which:

(I) Is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(II) Is a medium for investment and by its terms expressly provides that it is a security governed by this Article.

(o) "Security certificate" means a certificate representing a security.

(p) "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in part 5 of this Article.

(q) "Uncertificated security" means a security that is not represented by a certificate.

2. ~~{Other}~~ ***The following*** definitions ~~{applying to}~~ ***in*** this Article and ~~{the sections in which they appear are:}~~ ***other Articles apply to this Article:***

"Appropriate person." NRS 104.8107.

"Control." NRS 104.8106.

"Controllable account." NRS 104.9102.

"Controllable electronic record." Section 10 of this act.

"Controllable payment intangible." NRS 104.9102.

"Delivery." NRS 104.8301.

“Investment company security.” NRS 104.8103.

“Issuer.” NRS 104.8201.

“Overissue.” NRS 104.8210.

“Protected purchaser.” NRS 104.8303.

“Securities account.” NRS 104.8501.

3. In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

4. The characterization of a person, business or transaction for purposes of this Article does not determine the characterization of the person, business or transaction for purposes of any other law, regulation or rule.

Sec. 45. NRS 104.8103 is hereby amended to read as follows:

104.8103 1. A share or similar equity interest issued by a corporation, business trust, joint stock company or similar entity is a security.

2. An investment company security is a security. “Investment company security” means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered or a face-amount certificate issued by a face-amount certificate company that is so registered. The term does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

3. An interest in a partnership or limited-liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this Article, or it is an investment company security. However, an interest in a partnership or limited-liability company is a financial asset if it is held in a securities account.

4. A writing that is a security certificate is governed by this Article and not by Article 3, even though it also meets the requirements of that Article. However, a negotiable instrument governed by Article 3 is a financial asset if it is held in a securities account.

5. An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

6. A commodity contract, as defined in paragraph ~~[(e)]~~ (p) of subsection 1 of NRS 104.9102, is not a security or a financial asset.

7. A document of title is not a financial asset unless subparagraph (3) of paragraph (j) of subsection 1 of NRS 104.8102 applies.

8. *A controllable account, controllable electronic record or controllable payment intangible is not a financial asset unless subparagraph (3) of paragraph (j) of subsection 1 of NRS 104.8102 applies.*

Sec. 46. NRS 104.8106 is hereby amended to read as follows:

104.8106 1. A purchaser has “control” of a certificated security in bearer form if it is delivered to the purchaser.

2. A purchaser has “control” of a certificated security in registered form if it is delivered to the purchaser and:

(a) The certificate is endorsed to the purchaser or in blank by an effective endorsement; or

(b) The certificate is registered in the purchaser's name, upon original issue or registration of transfer by the issuer.

3. A purchaser has "control" of an uncertificated security if:

(a) It is delivered to the purchaser; or

(b) The issuer has agreed that it will comply with instructions originated by him or her without further consent by the registered owner.

4. A purchaser has "control" of a security entitlement if:

(a) The purchaser becomes the entitlement holder;

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by him or her without further consent by the entitlement holder; or

(c) Another person ~~has~~, *other than the transferor to the purchaser of an interest in the security entitlement:*

(1) *Has control of the security entitlement ~~on his or her behalf or, having previously acquired control of the security entitlement,~~ and acknowledges that it has control on ~~this or her~~ behalf ~~[-] of the purchaser; or~~*

(2) *Obtains control of the security entitlement after having acknowledged that it will obtain control of the security entitlement on behalf of the purchaser.*

5. If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

6. A purchaser who has satisfied the requirements of subsection 3 or 4 has control even if the registered owner in the case of subsection 3 or the entitlement holder in the case of subsection 4 retains the right to make substitutions for the uncertificated security or security entitlement, originate instructions or entitlement orders to the issuer or securities intermediary or otherwise deal with the uncertificated security or security entitlement.

7. An issuer or a securities intermediary may not enter into an agreement of the kind described in paragraph (b) of subsection 3 or paragraph (b) of subsection 4 without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even if the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

8. *A person that has control under this section is not required to acknowledge that it has control on behalf of a purchaser.*

9. *If a person acknowledges that it has or will obtain control on behalf of a purchaser, unless the person otherwise agrees or law other than this Article or Article 9 otherwise provides, the person does not owe any duty to the purchaser and is not required to confirm the acknowledgement to any other person.*

Sec. 47. NRS 104.8110 is hereby amended to read as follows:

104.8110 1. The local law of the issuer's jurisdiction, as specified in subsection 4, governs:

- (a) The validity of a security;
- (b) The rights and duties of the issuer with respect to registration of transfer;
- (c) The effectiveness of registration of transfer by the issuer;
- (d) Whether the issuer owes any duties to an adverse claimant to a security;

and

(e) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

2. The local law of the securities intermediary's jurisdiction, as specified in subsection 5, governs:

- (a) Acquisition of a security entitlement from the securities intermediary;
- (b) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;
- (c) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(d) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

3. The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

4. "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this State may specify the law of another jurisdiction as the law governing the matters specified in paragraphs (b) to (e), inclusive, of subsection 1.

5. The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder expressly provides the securities intermediary's jurisdiction for purposes of this part, this article or the Uniform Commercial Code, that jurisdiction is the securities intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(d) If neither paragraph (a) nor paragraph (b) nor paragraph (c) applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located.

(e) If none of the preceding paragraphs applies, the securities intermediary's jurisdiction is the jurisdiction in which its chief executive office is located.

6. A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement or by the location of facilities for data processing or other recordkeeping concerning the account.

7. *The local law of the issuer's jurisdiction or the securities intermediary's jurisdiction governs a matter or transaction specified in subsections 1 and 2 even if the matter or transaction does not bear any relation to the jurisdiction.*

Sec. 48. NRS 104.8303 is hereby amended to read as follows:

104.8303 1. "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

- (a) Gives value;
- (b) Does not have notice of any adverse claim to the security; and
- (c) Obtains control of the certificated or uncertificated security.

2. ~~[In addition to acquiring the rights of a purchaser, a]~~ A protected purchaser also acquires its interest in the security free of any adverse claim.

Sec. 49. NRS 104.9102 is hereby amended to read as follows:

104.9102 1. In this Article:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(b) "Account," except as used in "account for," ***"account statement," "account to," "commodity account" in paragraph (o), "customer's account," "deposit account" in paragraph (ff), "on account of" and "statement of account"*** means a right to payment of a monetary obligation, whether or not earned by performance, for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; for services rendered or to be rendered; for a policy of insurance issued or to be issued; for a secondary obligation incurred or to be incurred; for energy provided or to be provided; for the use or hire of a vessel under a charter or other contract; arising out of the use of a credit or charge card or information contained on or for use with the card; or as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes ***controllable accounts and*** health-care-insurance receivables. The term does not include ~~[rights to payment evidenced by]~~ chattel paper; ~~[for an instrument;]~~ commercial tort claims; deposit accounts; investment property; letter-of-credit rights or letters of credit; ~~[or]~~ rights to payment for money or

funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card ~~[]~~; ***or rights to payment evidenced by an instrument.***

(c) “Account debtor” means a person obligated on an account, chattel paper or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the ***negotiable*** instrument ~~[constitutes part of]~~ ***evidences*** chattel paper.

(d) “Accounting,” except as used in “accounting for,” means a record:

- (1) ~~[Authenticated]~~ ***Signed*** by a secured party;
- (2) Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and
- (3) Identifying the components of the obligations in reasonable detail.

(e) “Agricultural lien” means an interest, other than a security interest, in farm products:

(1) Which secures payment or performance of an obligation for:

(I) Goods or services furnished in connection with a debtor’s farming operation; or

(II) Rent on real property leased by a debtor in connection with its farming operation;

(2) Which is created by statute in favor of a person that:

(I) In the ordinary course of its business furnished goods or services to a debtor in connection with his or her farming operation; or

(II) Leased real property to a debtor in connection with his or her farming operation; and

(3) Whose effectiveness does not depend on the person’s possession of the personal property.

(f) “As-extracted collateral” means:

(1) Oil, gas or other minerals that are subject to a security interest that:

(I) Is created by a debtor having an interest in the minerals before extraction; and

(II) Attaches to the minerals as extracted; or

(2) Accounts arising out of the sale at the wellhead or minehead of oil, gas or other minerals in which the debtor had an interest before extraction.

(g) ~~“Authenticate” means:~~

- ~~— (1) To sign; or~~
- ~~— (2) With present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol or process.]~~

“Assignee,” except as used in “assignee for benefit of creditors,” means a person:

(1) ***In whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not the obligation is outstanding; or***

(2) ***To which an account, chattel paper, payment intangible or promissory note has been sold.***

↪ *The term includes a person to which a security interest has been transferred by a secured party.*

(h) *“Assignor” means a person that:*

(1) Under a security agreement creates or provides for a security interest that secures an obligation; or

(2) Sells an account, chattel paper, payment intangible or promissory note.

↪ *The term includes a secured party that has transferred a security interest to another person.*

(i) *“Bank” means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions and trust companies.*

~~{(i)}~~ (j) *“Cash proceeds” means proceeds that are money, checks, deposit accounts or the like.*

~~{(j)}~~ (k) *“Certificate of title” means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.*

~~{(k)}~~ (l) *“Chattel paper” means [a record or records that evidence both a monetary obligation and a security interest in or a lease of specific goods or of specific goods and software used in the goods, or a security interest in or a lease of specific goods and a license of software used in the goods. The term does not include charters or other contracts involving the use or hire of a vessel, or records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper. As used in this paragraph, “monetary obligation” means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods.] :*

(1) A right to payment of a monetary obligation secured by specific goods, if the right to payment and security agreement are evidenced by a record; or

(2) A right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation owed by the lessee in connection with the transaction giving rise to the lease, if:

(I) The right to payment and lease agreement are evidenced by a record; and

(II) The predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

↪ The term does not include a right to payment arising out of a charter or other contract involving the use or hire of a vessel or a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

~~[(4)]~~ *(m)* “Collateral” means the property subject to a security interest or agricultural lien. The term includes:

- (1) Proceeds to which a security interest attaches;
- (2) Accounts, chattel paper, payment intangibles and promissory notes that have been sold; and
- (3) Goods that are the subject of a consignment.

~~[(m)]~~ *(n)* “Commercial tort claim” means a claim arising in tort with respect to which:

- (1) The claimant is an organization; or
- (2) The claimant is a natural person and the claim:
 - (I) Arose in the course of the claimant’s business or profession; and
 - (II) Does not include damages arising out of personal injury to or the death of a natural person.

~~[(n)]~~ *(o)* “Commodity account” means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

~~[(o)]~~ *(p)* “Commodity contract” means a commodity futures contract, an option on a commodity futures contract, a commodity option or another contract if the contract or option is:

- (1) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or
- (2) Traded on a foreign commodity board of trade, exchange or market, and is carried on the books of a commodity intermediary for a commodity customer.

~~[(p)]~~ *(q)* “Commodity customer” means a person for which a commodity intermediary carries a commodity contract on its books.

~~[(q)]~~ *(r)* “Commodity intermediary” means a person that:

- (1) Is registered as a futures commission merchant under federal commodities law; or
- (2) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

~~[(r)]~~ *(s)* “Communicate” means:

- (1) To send a written or other tangible record;
- (2) To transmit a record by any means agreed upon by the persons sending and receiving the record; or
- (3) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

~~{(s)}~~ (t) “Consignee” means a merchant to which goods are delivered in a consignment.

~~{(t)}~~ (u) “Consignment” means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(1) The merchant:

(I) Deals in goods of that kind under a name other than the name of the person making delivery;

(II) Is not an auctioneer; and

(III) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(2) With respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time of delivery;

(3) The goods are not consumer goods immediately before delivery; and

(4) The transaction does not create a security interest that secures an obligation.

~~{(u)}~~ (v) “Consignor” means a person that delivers goods to a consignee in a consignment.

~~{(v)}~~ (w) “Consumer debtor” means a debtor in a consumer transaction.

~~{(w)}~~ (x) “Consumer goods” means goods that are used or bought for use primarily for personal, family or household purposes.

~~{(x)}~~ (y) “Consumer-goods transaction” means a consumer transaction to the extent that:

(1) A natural person incurs an obligation primarily for personal, family or household purposes; and

(2) A security interest in consumer goods or in consumer goods and software that is held or acquired primarily for personal, family or household purposes secures the obligation.

~~{(y)}~~ (z) “Consumer obligor” means an obligor who is a natural person and who incurred the obligation as part of a transaction entered into primarily for personal, family or household purposes.

~~{(z)}~~ (aa) “Consumer transaction” means a transaction to the extent that a natural person incurs an obligation primarily for personal, family or household purposes; a security interest secures the obligation; and the collateral is held or acquired primarily for personal, family or household purposes. The term includes consumer-goods transactions.

~~{(aa)}~~ (bb) “Continuation statement” means a change of a financing statement which:

(1) Identifies, by its file number, the initial financing statement to which it relates; and

(2) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

~~{(bb)}~~ (cc) “*Controllable account*” means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under section 13 of this act of the controllable electronic record.

(dd) “Controllable payment intangible” means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under section 13 of this act of the controllable electronic record.

(ee) “Debtor” means:

(1) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(2) A seller of accounts, chattel paper, payment intangibles or promissory notes; or

(3) A consignee.

~~[(ee)]~~ *(ff) “Deposit account” means a demand, time, savings, passbook or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.*

~~[(dd)]~~ *(gg) “Document” means a document of title or a receipt of the type described in subsection 2 of NRS 104.7201.*

~~[(ee)]~~ *(hh) ~~“Electronic chattel paper”~~ ~~“money”~~ means chattel paper evidenced by a record or records consisting of information stored ~~“money”~~ in an electronic medium.* ~~form.~~

~~[(ff)]~~ ~~(ii)~~ *(i) “Encumbrance” means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.*

~~[(gg)]~~ ~~(jj)~~ *(ii) “Equipment” means goods other than inventory, farm products or consumer goods.*

~~[(hh)]~~ ~~(kk)~~ *(jj) “Farm products” means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:*

(1) Crops grown, growing or to be grown, including:

(I) Crops produced on trees, vines and bushes; and

(II) Aquatic goods produced in aquacultural operations;

(2) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(3) Supplies used or produced in a farming operation; or

(4) Products of crops or livestock in their unmanufactured states.

~~[(ii)]~~ ~~(ll)~~ *(kk) “Farming operation” means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.*

~~[(jj)]~~ ~~(mm)~~ *(ll) “File number” means the number assigned to an initial financing statement pursuant to subsection 1 of NRS 104.9519.*

~~[(kk)]~~ ~~(nn)~~ *(mm) “Filing office” means an office designated in NRS 104.9501 as the place to file a financing statement.*

~~[(ll)]~~ ~~(oo)~~ *(nn) “Filing-office rule” means a rule adopted pursuant to NRS 104.9526.*

~~[(mm)]~~ ~~(pp)~~ *(oo) “Financing statement” means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.*

~~[(nn)-(qq)]~~ (pp) “Fixture filing” means the filing of a financing statement covering goods that are or are to become fixtures and satisfying subsections 1 and 2 of NRS 104.9502. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

~~[(oo)-(rr)]~~ (qq) “Fixtures” means goods that have become so related to particular real property that an interest in them arises under real property law.

~~[(pp)-(ss)]~~ (rr) “General intangible” means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas or other minerals before extraction. The term includes *controllable electronic records*, payment intangibles and software.

~~[(qq)-(tt)]~~ (ss) “Goods” means all things that are movable when a security interest attaches. The term includes fixtures; standing timber that is to be cut and removed under a conveyance or contract for sale; the unborn young of animals; crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas or other minerals before extraction.

~~[(rr)-(uu)]~~ (tt) “Governmental unit” means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

~~[(ss)-(vv)]~~ (uu) “Health-care-insurance receivable” means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

~~[(tt)-(www)]~~ (vv) “Instrument” means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary endorsement or assignment. The term does not include investment property, letters of credit, ~~[or]~~ writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card ~~[or]~~ *writings that evidence chattel paper*.

~~[(uu)-(xx)]~~ (ww) “Inventory” means goods, other than farm products, which:

- (1) Are leased by a person as lessor;
- (2) Are held by a person for sale or lease or to be furnished under a contract of service;
- (3) Are furnished by a person under a contract of service; or
- (4) Consist of raw materials, work in process, or materials used or consumed in a business.

~~[(vv)-(yy)]~~ (xx) “Investment property” means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

~~[(ww)-(zz)]~~ (yy) “Jurisdiction of organization,” with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

~~[(xx)-(aaa)]~~ (zz) “Letter-of-credit right” means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

~~[(yy)-(bbb)]~~ (aaa) “Lien creditor” means:

- (1) A creditor that has acquired a lien on the property involved by attachment, levy or the like;
- (2) An assignee for benefit of creditors from the time of assignment;
- (3) A trustee in bankruptcy from the date of the filing of the petition; or
- (4) A receiver in equity from the time of appointment.

~~[(zz)-(eee)]~~ (bbb) “Manufactured home” means a structure, transportable in one or more sections, which in the traveling mode, is 8 feet or more in body width or 40 feet or more in body length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

~~[(aaa)-(ddd)]~~ (ccc) “Manufactured-home transaction” means a secured transaction:

- (1) That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or
- (2) In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

~~[(bbb)-(eee)]~~ (ddd) “Money” has the meaning in paragraph (y) of subsection 2 of NRS 104.1201, but does not include a deposit account ~~for~~

~~money in an electronic form that cannot be subjected to control under section 2 of this act.~~

~~[(fff)]~~ (eee) “Mortgage” means a consensual interest in real property, including fixtures, which is created by a mortgage, deed of trust, or similar transaction.

~~[(eee)]~~ ~~(ggg)]~~ (fff) “New debtor” means a person that becomes bound as debtor under subsection 4 of NRS 104.9203 by a security agreement previously entered into by another person.

~~[(ddd)]~~ ~~(hhh)]~~ (ggg) “New value” means money; money’s worth in property, services or new credit; or release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

~~[(eee)]~~ ~~(iii)]~~ (hhh) “Noncash proceeds” means proceeds other than cash proceeds.

~~[(fff)]~~ ~~(jii)]~~ (iii) “Obligor” means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, owes payment or other performance of the obligation, has provided property other than the collateral to secure payment or other performance of the obligation, or is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include an issuer or a nominated person under a letter of credit.

~~[(ggg)]~~ ~~(kkk)]~~ (jii) “Original debtor” means, except as used in subsection 3 of NRS 104.9310, a person that, as debtor, entered into a security agreement to which a new debtor has become bound under subsection 4 of NRS 104.9203.

~~[(hhh)]~~ ~~(III)]~~ (kkk) “Payment intangible” means a general intangible under which the account debtor’s principal obligation is a monetary obligation. ***The term includes a controllable payment intangible.***

~~[(iii)]~~ ~~(mmm)]~~ (III) “Person related to,” with respect to a natural person, means:

- (1) The person’s spouse;
- (2) The person’s brother, brother-in-law, sister or sister-in-law;
- (3) The person’s or the person’s spouse’s ancestor or lineal descendant;

or

- (4) Any other relative, by blood or marriage, of the person or the person’s spouse who shares the same home with him or her.

~~[(jjj)]~~ ~~(nnn)]~~ (mmm) “Person related to,” with respect to an organization, means:

- (1) A person directly or indirectly controlling, controlled by or under common control with the organization;
- (2) An officer or director of, or a person performing similar functions with respect to, the organization;
- (3) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (1);
- (4) The spouse of a natural person described in subparagraph (1), (2) or (3); or

(5) A person who is related by blood or marriage to a person described in subparagraph (1), (2), (3) or (4) and shares the same home with that person.

~~[(kkk)-(ooo)]~~ **(nnn)** “Proceeds” means, except as used in subsection 2 of NRS 104.9609, the following property:

(1) Whatever is acquired upon the sale, lease, license, exchange or other disposition of collateral;

(2) Whatever is collected on, or distributed on account of, collateral;

(3) Rights arising out of collateral;

(4) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; and

(5) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

~~[(lll)-(ppp)]~~ **(ooo)** “Promissory note” means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

~~[(mmm)-(qqq)]~~ **(ppp)** “Proposal” means a record ~~[authenticated]~~ **signed** by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to NRS 104.9620, 104.9621 and 104.9622.

~~[(nnn)-(rrr)]~~ **(qqq)** “Public-finance transaction” means a secured transaction in connection with which:

(1) Debt securities are issued;

(2) All or a portion of the securities issued have an initial stated maturity of at least 20 years; and

(3) The debtor, the obligor, the secured party, the account debtor or other person obligated on collateral, the assignor or assignee of a secured obligation, or the assignor or assignee of a security interest is a state or a governmental unit of a state.

~~[(ooo)-(sss)]~~ **(rrr)** “Public organic record” means a record that is available to the public for inspection and is:

(1) A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(2) An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(3) A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation and any record filed with or issued by the

state or the United States which amends or restates the name of the organization.

~~[(ppp)-(ttt)]~~ (sss) “Pursuant to commitment,” with respect to an advance made or other value given by a secured party, means pursuant to the secured party’s obligation, whether or not a subsequent event of default or other event not within the secured party’s control has relieved or may relieve the secured party from its obligation.

~~[(qqq)-(uuu)]~~ (ttt) “Record,” except as used in “for record,” “of record,” “record or legal title,” and “record owner,” means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

~~[(rrr)-(vvv)]~~ (uuu) “Registered organization” means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust’s organic record be filed with the state.

~~[(sss)-(www)]~~ (vvv) “Secondary obligor” means an obligor to the extent that:

- (1) The obligor’s obligation is secondary; or
- (2) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor or property of either.

~~[(ttt)-(xxx)]~~ (www) “Secured party” means:

- (1) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
- (2) A person that holds an agricultural lien;
- (3) A consignor;
- (4) A person to which accounts, chattel paper, payment intangibles or promissory notes have been sold;
- (5) A trustee, indenture trustee, agent, collateral agent or other representative in whose favor a security interest or agricultural lien is created or provided for; or
- (6) A person that holds a security interest arising under NRS 104.2401, 104.2505, subsection 3 of NRS 104.2711, NRS 104.4210, 104.5118 or subsection 5 of NRS 104A.2508.

~~[(uuu)-(yyy)]~~ (xxx) “Security agreement” means an agreement that creates or provides for a security interest.

~~[(vvv)]~~ “Send,” in connection with a record or notification, means:

- ~~—— (1) To deposit in the mail, deliver for transmission or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or~~
- ~~—— (2) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (1).~~

~~—(www)–(zzz)–~~ (yyy) “Software” means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is contained in goods unless the goods are a computer or computer peripheral.

~~[(xxx)–(aaa)–]~~ (zzz) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~[(yyy)–(bbb)–]~~ (aaa) “Supporting obligation” means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, document, general intangible, instrument or investment property.

~~[(zzz)–(ccc)–] “Tangible chattel paper” *money* means chattel paper evidenced by a record or records consisting of information that is inscribed on *money in a tangible medium form*.~~

~~–(aaa)–(ddd)–]~~ (bbb) “Termination statement” means a subsequent filing which:

(1) Identifies, by its file number, the initial financing statement to which it relates; and

(2) Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

~~[(bbb)–(ccc)–]~~ (ccc) “Transmitting utility” means a person primarily engaged in the business of:

(1) Operating a railroad, subway, street railway or trolley bus;

(2) Transmitting communications electrically, electromagnetically or by light;

(3) Transmitting goods by pipeline;

(4) Providing sewerage; or

(5) Transmitting or producing and transmitting electricity, steam, gas or water.

2. “Control” as provided in NRS 104.7106 and the following definitions in other Articles apply to this Article:

“Applicant.” NRS 104.5102.

“Beneficiary.” NRS 104.5102.

“Broker.” NRS 104.8102.

“Certificated security.” NRS 104.8102.

“Check.” NRS 104.3104.

“Clearing corporation.” NRS 104.8102.

“Contract for sale.” NRS 104.2106.

“Controllable electronic record.” Section 10 of this act.

“Customer.” NRS 104.4104.

“Entitlement holder.” NRS 104.8102.

“Financial asset.” NRS 104.8102.

“Holder in due course.” NRS 104.3302.

“Issuer” (with respect to a letter of credit or letter-of-credit right). NRS 104.5102.

“Issuer” (with respect to a security). NRS 104.8201.

“Issuer” (with respect to documents of title). NRS 104.7102.

“Lease.” NRS 104A.2103.

“Lease agreement.” NRS 104A.2103.

“Lease contract.” NRS 104A.2103.

“Leasehold interest.” NRS 104A.2103.

“Lessee.” NRS 104A.2103.

“Lessee in ordinary course of business.” NRS 104A.2103.

“Lessor.” NRS 104A.2103.

“Lessor’s residual interest.” NRS 104A.2103.

“Letter of credit.” NRS 104.5102.

“Merchant.” NRS 104.2104.

“Negotiable instrument.” NRS 104.3104.

“Nominated person.” NRS 104.5102.

“Note.” NRS 104.3104.

“Proceeds of a letter of credit.” NRS 104.5114.

“Protected purchaser.” NRS 104.8303.

“Prove.” NRS 104.3103.

“Qualifying purchaser.” Section 10 of this act.

“Sale.” NRS 104.2106.

“Securities account.” NRS 104.8501.

“Securities intermediary.” NRS 104.8102.

“Security.” NRS 104.8102.

“Security certificate.” NRS 104.8102.

“Security entitlement.” NRS 104.8102.

“Uncertificated security.” NRS 104.8102.

3. Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 50. NRS 104.9104 is hereby amended to read as follows:

104.9104 1. A secured party has control of a deposit account if:

(a) The secured party is the bank with which the deposit account is maintained;

(b) The debtor, secured party and bank have agreed in ~~{an authenticated}~~ ***a signed*** record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; ~~{or}~~

(c) The secured party becomes the bank’s customer with respect to the deposit account ~~{-}~~; ***or***

(d) Another person, other than the debtor:

(1) Has control of the deposit account and acknowledges that it has control on behalf of the secured party; or

(2) *Obtains control of the deposit account after having acknowledged that it will obtain control of the deposit account on behalf of the secured party.*

2. A secured party that has satisfied subsection 1 has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Sec. 51. NRS 104.9105 is hereby amended to read as follows:

104.9105 1. A ~~{secured party}~~ **purchaser** has control of *an authoritative electronic copy of a record evidencing* chattel paper if a system employed for evidencing the ~~{transfer}~~ **assignment** of interests in the chattel paper reliably establishes the ~~{secured party}~~ **purchaser** as the person to which the ~~{chattel paper}~~ **authoritative electronic copy** was assigned.

2. A system satisfies subsection 1 if the record or records ~~{comprising}~~ **evidencing** the chattel paper are created, stored and assigned in such a manner that:

(a) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in paragraphs (d), (e) and (f), unalterable;

(b) The authoritative copy identifies the ~~{secured party}~~ **purchaser** as the assignee of the record or records;

(c) The authoritative copy is communicated to and maintained by the ~~{secured party}~~ **purchaser** or its designated custodian;

(d) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the ~~{secured party}~~ **purchaser**;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

3. *A system satisfies subsection 1, and a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if the electronic copy, a record attached to or logically associated with the electronic copy or a system in which the electronic copy is recorded:*

(a) *Enables the purchaser readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;*

(b) *Enables the purchaser readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as the assignee of the authoritative electronic copy; and*

(c) *Gives the purchaser exclusive power, subject to subsection 4, to:*

(1) *Prevent others from adding or changing an identified assignee of the authoritative electronic copy; and*

(2) *Transfer control of the authoritative electronic copy.*

4. *Subject to subsection 5, a power is exclusive under subparagraphs (1) and (2) of paragraph (c) of subsection 3, even if:*

(a) The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy or a system in which the authoritative electronic copy is recorded limits the use of the authoritative electronic copy or has a protocol programmed to cause a change, including a transfer or loss of control; or

(b) The power is shared with another person.

5. A power of a purchaser is not shared with another person under paragraph (b) of subsection 4 and the purchaser's power is not exclusive if:

(a) The purchaser can exercise a power only if the power also is exercised by the other person; and

(b) The other person:

(1) Can exercise the power without exercise of the power by the purchaser; or

(2) Is the transferor to the purchaser of an interest in the chattel paper.

6. If a purchaser has the powers specified in subparagraphs (1) and (2) of paragraph (c) of subsection 3, the powers are presumed to be exclusive.

7. A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if another person, other than the transferor to the purchaser of an interest in the chattel paper:

(a) Has control of the authoritative electronic copy and acknowledges that it has control on behalf of the purchaser; or

(b) Obtains control of the authoritative electronic copy after having acknowledged that it will obtain control of the electronic copy on behalf of the purchaser.

Sec. 52. NRS 104.9203 is hereby amended to read as follows:

104.9203 1. A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

2. Except as otherwise provided in subsections 3 to 9, inclusive, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One of the following conditions is met:

(1) The debtor has ~~authenticated~~ **signed** a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(2) The collateral is not a certificated security and is in the possession of the secured party under NRS 104.9313 pursuant to the debtor's security agreement;

(3) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under NRS 104.8301 pursuant to the debtor's security agreement; ~~for~~

(4) The collateral is *controllable accounts, controllable electronic records, controllable payment intangibles*, deposit accounts, electronic ~~[chattel paper,] documents, [electronic money,]~~ investment property ~~[,] or~~ letter-of-credit rights, ~~[or electronic documents,]~~ and the secured party has control under NRS 104.7106, 104.9104, ~~[104.9105,]~~ 104.9106 or 104.9107 *or section ~~[2 or] 3 of this act~~* pursuant to the debtor's security agreement ~~[,]~~; *or*

(5) *The collateral is chattel paper and the secured party has possession and control under section 7 of this act pursuant to the debtor's security agreement.*

3. Subsection 2 is subject to NRS 104.4210 on the security interest of a collecting bank, NRS 104.5118 on the security interest of a letter-of-credit issuer or nominated person, NRS 104.9110 on a security interest arising under Article 2 or 2A, and NRS 104.9206 on security interests in investment property.

4. A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this Article or by contract:

(a) The security agreement becomes effective to create a security interest in his or her property; or

(b) He or she becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

5. If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(a) The agreement satisfies paragraph (c) of subsection 2 with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(b) Another agreement is not necessary to make a security interest in the property enforceable.

6. The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by NRS 104.9315 and is also attachment of a security interest in a supporting obligation for the collateral.

7. The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage or other lien.

8. The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

9. The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Sec. 53. NRS 104.9204 is hereby amended to read as follows:

104.9204 1. Except as otherwise provided in subsection 2, a security agreement may create or provide for a security interest in after-acquired collateral.

2. ~~{A}~~ *Subject to subsection 3, a* security interest does not attach under a term constituting an after-acquired property clause to:

(a) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(b) A commercial tort claim.

3. *Subsection 2 does not prevent a security interest from attaching:*

(a) *To consumer goods as proceeds under subsection 1 of NRS 104.9315 or commingled goods under subsection 3 of NRS 104.9336;*

(b) *To a commercial tort claim as proceeds under subsection 1 of NRS 104.9315; or*

(c) *Under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.*

4. A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

Sec. 54. NRS 104.9207 is hereby amended to read as follows:

104.9207 1. Except as otherwise provided in subsection 4, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

2. Except as otherwise provided in subsection 4, if a secured party has possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:

(1) For the purpose of preserving the collateral or its value;

(2) As permitted by an order of a court having competent jurisdiction; or

(3) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

3. Except as otherwise provided in subsection 4, a secured party having possession of collateral or control of collateral under NRS 104.7106, 104.9104, 104.9105, 104.9106 or 104.9107 ~~{-or-}~~ *or section 2 or 3 of this act:*

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

4. If the secured party is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor:

(a) Subsection 1 does not apply unless the secured party is entitled under an agreement:

(1) To charge back uncollected collateral; or

(2) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections 2 and 3 do not apply.

Sec. 55. NRS 104.9208 is hereby amended to read as follows:

104.9208 If there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations or otherwise give value, within 10 days after receiving ~~an authenticated~~ **a signed** demand by the debtor:

1. A secured party having control of a deposit account under paragraph (b) of subsection 1 of NRS 104.9104 shall send to the bank with which the deposit account is maintained ~~an authenticated statement~~ **a signed record** that releases the bank from any further obligation to comply with instructions originated by the secured party;

2. A secured party having control of a deposit account under paragraph (c) of subsection 1 of NRS 104.9104 shall:

(a) Pay the debtor the balance on deposit in the deposit account; or

(b) Transfer the balance on deposit into a deposit account in the debtor's name;

3. A ~~secured party,~~ **purchaser**, other than a buyer, having control ~~of electronic chattel paper~~ under NRS 104.9105 **of an authoritative electronic copy of a record evidencing chattel paper** shall ~~fr~~:

~~—(a) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;~~

~~—(b) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and~~

~~—(c) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;~~ **transfer control of the electronic copy to the debtor or a person designated by the debtor;**

4. A secured party having control of investment property under paragraph (b) of subsection 4 of NRS 104.8106 or under subsection 2 of NRS 104.9106 shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained ~~an authenticated~~ **a signed** record that releases the securities intermediary or

commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

5. A secured party having control of a letter-of-credit right under NRS 104.9107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party ~~[an authenticated]~~ **a signed** release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; ~~[and]~~

6. A secured party having control **under NRS 104.7106** of an **authoritative** electronic ~~[document]~~ **copy of an electronic document** shall ~~[-~~

~~—(a) Give]~~ **transfer** control of the electronic ~~[document]~~ **copy** to the debtor or ~~[its designated custodian;~~

~~—(b) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and~~

~~—(c) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.] a person designated by the debtor; and~~

7. ~~[A secured party having control under section 2 of this act of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and~~

~~—8.] A secured party having control under section 13 of this act of a controllable electronic record, other than a buyer of a controllable account or controllable payment intangible evidenced by the controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.~~

Sec. 56. NRS 104.9209 is hereby amended to read as follows:

104.9209 1. Except as otherwise provided in subsection 3, this section applies if:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations or otherwise give value.

2. Within 10 days after receiving ~~[an authenticated]~~ **a signed** demand by the debtor, a secured party shall send to an account debtor that has received notification **under subsection 1 of NRS 104.9406 or subsection 2 of section 14 of this act** of an assignment to the secured party as assignee ~~[under subsection 1 of NRS 104.9406 an authenticated]~~ **a signed** record that releases the account debtor from any further obligation to the secured party.

3. This section does not apply to an assignment constituting the sale of an account, chattel paper or payment intangible.

Sec. 57. NRS 104.9210 is hereby amended to read as follows:

104.9210 1. In this section:

(a) “Request” means a record of a type described in paragraph (b), (c) or (d).

(b) “Request for an accounting” means a record ~~[authenticated]~~ **signed** by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) “Request regarding a list of collateral” means a record ~~[authenticated]~~ **signed** by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) “Request regarding a statement of account” means a record ~~[authenticated]~~ **signed** by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

2. Subject to subsections 3 to 6, inclusive, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(a) In the case of a request for an accounting, by ~~[authenticating]~~ **signing** and sending to the debtor an accounting; and

(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by ~~[authenticating]~~ **signing** and sending to the debtor an approval or correction.

3. A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor ~~[an authenticated]~~ **a signed** record including a statement to that effect within 14 days after receipt.

4. A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor ~~[an authenticated]~~ **a signed** record:

(a) Disclaiming any interest in the collateral; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient’s interest in the collateral.

5. A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor ~~[an authenticated]~~ **a signed** record:

(a) Disclaiming any interest in the obligations; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient’s interest in the obligations.

6. A debtor is entitled without charge to one response to a request under this section during any 6-month period. The secured party may require payment of a charge not exceeding \$25 for each additional response.

Sec. 58. NRS 104.9301 is hereby amended to read as follows:

104.9301 Except as otherwise provided in NRS 104.9303 to 104.9306, inclusive, **and section 6 of this act**, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

1. Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

2. While collateral is located in a jurisdiction, the law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

3. Except as otherwise provided in subsections 4, 5 and 6, while ~~intangible~~ negotiable **tangible** documents, goods, instruments ~~[-] or intangible~~ money ~~for tangible chattel paper~~ is located in a jurisdiction, the law of that jurisdiction governs the effect of perfection or nonperfection, and the priority of a nonpossessory security interest.

4. While goods are located in a jurisdiction, the law of that jurisdiction governs perfection of a security interest in the goods by a fixture filing.

5. The law of the jurisdiction in which timber to be cut is located governs perfection of a security interest in the timber.

6. The law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

Sec. 59. NRS 104.9304 is hereby amended to read as follows:

104.9304 1. The law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank ~~[-]~~, **even if a transaction does not bear any relation to the bank's jurisdiction.**

2. The following rules determine a bank's jurisdiction for purposes of this part:

(a) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this article or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(d) If neither paragraph (a) nor paragraph (b) nor paragraph (c) applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(e) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Sec. 60. NRS 104.9305 is hereby amended to read as follows:

104.9305 1. Except as otherwise provided in subsection 3, the following rules apply:

(a) While a security certificate is located in a jurisdiction, the law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(b) The law of the issuer's jurisdiction as specified in subsection 4 of NRS 104.8110 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(c) The law of the securities intermediary's jurisdiction as specified in subsection 5 of NRS 104.8110 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(d) The law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(e) Paragraphs (b), (c) and (d) apply even if the transaction does not bear any relation to the jurisdiction.

2. The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this article or the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(d) If neither paragraph (a) nor paragraph (b) nor paragraph (c) applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

3. The law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in investment property by filing;

(b) Automatic perfection of a security interest in investment property granted by a broker or securities intermediary; and

(c) Automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary.

Sec. 61. NRS 104.9310 is hereby amended to read as follows:

104.9310 1. Except as otherwise provided in subsection 2 or subsection 2 of NRS 104.9312, a financing statement must be filed to perfect all security interests and agricultural liens.

2. The filing of a financing statement is not necessary to perfect a security interest:

(a) That is perfected under subsection 4, 5, 6 or 7 of NRS 104.9308;

(b) That is perfected under NRS 104.9309 when it attaches;

(c) In property subject to a statute, regulation or treaty described in subsection 1 of NRS 104.9311;

(d) In goods in possession of a bailee which is perfected under paragraph (a) or (b) of subsection 4 of NRS 104.9312;

(e) In certificated securities, documents, goods or instruments which is perfected without filing, control or possession under subsection 5, 6 or 7 of NRS 104.9312;

(f) In collateral in the secured party's possession under NRS 104.9313;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under NRS 104.9313;

(h) In ***controllable accounts, controllable electronic records, controllable payment intangibles***, deposit accounts, ~~[electronic chattel paper,]~~ electronic documents, investment property or letter-of-credit rights which is perfected by control under NRS 104.9314;

(i) ***In chattel paper which is perfected by possession and control under section 7 of this act;***

(j) In proceeds which is perfected under NRS 104.9315; or

~~[(j)]~~ (k) That is perfected under NRS 104.9316.

3. If a secured party assigns a perfected security interest or agricultural lien, a filing under this Article is not required to reconfirm the perfected status of the security interest against creditors of and transferees from the original debtor.

Sec. 62. NRS 104.9312 is hereby amended to read as follows:

104.9312 1. A security interest in chattel paper, ~~[negotiable documents,]~~ ***controllable accounts, controllable electronic records, controllable payment intangibles***, instruments, ~~[or]~~ investment property ***or negotiable documents*** may be perfected by filing.

2. Except as otherwise provided in subsections 3 and 4 of NRS 104.9315 for proceeds:

(a) A security interest in a deposit account may be perfected only by control under NRS 104.9314;

(b) A security interest in a letter-of-credit right may be perfected only by control under NRS 104.9314, except as otherwise provided in subsection 4 of NRS 104.9308; and

(c) A security interest in ~~tangible~~ money may be perfected only by the secured party's taking possession under NRS 104.9313 ~~;~~ and

~~(d) A security interest in electronic money may be perfected only by control under NRS 104.9314.~~

3. While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

4. While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

(b) The bailee's receipt of notification of the secured party's interest; or

(c) Filing as to the goods.

5. A security interest in certificated securities, negotiable documents or instruments is perfected without filing or the taking of possession or control for a period of 20 days after the time it attaches to the extent that it arises for new value given under ~~[an authenticated]~~ **a signed** security agreement.

6. A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) Ultimate sale or exchange; or

(b) Loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange.

7. A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal or registration of transfer.

8. After the 20-day period specified in subsection 5, 6 or 7 expires, perfection depends upon compliance with this Article.

Sec. 63. NRS 104.9313 is hereby amended to read as follows:

104.9313 1. Except as otherwise provided in subsection 2, a secured party may perfect a security interest in ~~[tangible negotiable documents,]~~ goods, instruments, ***negotiable tangible documents or [tangible]*** money ~~[or tangible chattel paper]~~ by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under NRS 104.8301.

2. With respect to goods covered by a certificate of title issued by this State, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in subsection 5 of NRS 104.9316.

3. With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(a) The person in possession ~~[authenticates]~~ ***signs*** a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(b) The person takes possession of the collateral after having ~~[authenticated]~~ ***signed*** a record acknowledging that it will hold possession of ***the*** collateral for the secured party's benefit.

4. If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs ~~[no]~~ ***not*** earlier than the time the secured party takes possession and continues only while the secured party retains possession.

5. A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under NRS 104.8301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

6. A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

7. If a person acknowledges that it holds possession for the secured party's benefit:

(a) The acknowledgment is effective under subsection 3 or subsection 1 of NRS 104.8301, even if the acknowledgment violates the rights of a debtor; and

(b) Unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

8. A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if he or she was instructed before the delivery or is instructed contemporaneously with the delivery:

(a) To hold possession of the collateral for the secured party's benefit; or

(b) To redeliver the collateral to the secured party.

9. A secured party does not relinquish possession, even if a delivery under subsection 8 violates the rights of a debtor. A person to which collateral is delivered under subsection 8 does not owe any duty to the secured party and is not required to confirm the delivery to another person unless he or she otherwise agrees or law other than this Article otherwise provides.

Sec. 64. NRS 104.9314 is hereby amended to read as follows:

104.9314 1. A security interest in ~~[investment property, deposit accounts, letter of credit rights, electronic chattel paper or]~~ **controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, ~~[electronic money],~~ investment property or letter-of-credit rights** may be perfected by control of the collateral under NRS 104.7106, 104.9104, ~~[104.9105,]~~ 104.9106 or 104.9107 ~~[.]~~ **or section ~~[2 or]~~ 3 of this act.**

2. A security interest in ~~[deposit accounts, letter of credit rights, electronic chattel paper or]~~ **controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents ~~[,~~ ~~[electronic money]~~ or letter-of-credit rights** is perfected by control under NRS 104.7106, 104.9104 ~~[, 104.9105]~~ or 104.9107 ~~[when]~~ **or section ~~[2 or]~~ 3 of this act not earlier than the time** the secured party obtains control and remains perfected by control only while the secured party retains control.

3. A security interest in investment property is perfected by control under NRS 104.9106 ~~[from]~~ **not earlier than** the time the secured party obtains control and remains perfected by control until:

(a) The secured party does not have control; and

(b) One of the following occurs:

(1) If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(2) If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(3) If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Sec. 65. NRS 104.9316 is hereby amended to read as follows:

104.9316 1. A security interest perfected pursuant to the law of the jurisdiction designated in subsection 1 of NRS 104.9301, ~~[or]~~ subsection 3 of NRS 104.9305, **subsection 4 of section 5 of this act or subsection 2 of section 6 of this act** remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of 4 months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of 1 year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

2. If a security interest described in subsection 1 becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not

become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

3. A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

- (a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;
- (b) Thereafter the collateral is brought into another jurisdiction; and
- (c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

4. Except as otherwise provided in subsection 5, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this State remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

5. A security interest described in subsection 4 becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under subsection 2 of NRS 104.9311 or under NRS 104.9313 are not satisfied before the earlier of:

- (a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this State; or
- (b) The expiration of 4 months after the goods had become so covered.

6. A security interest in ***chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles***, deposit accounts, letter-of-credit rights or investment property which is perfected under the law of the ***chattel paper's jurisdiction, the controllable electronic record's jurisdiction, the*** bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

- (a) The time the security interest would have become unperfected under the law of that jurisdiction; or
- (b) The expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

7. If a security interest described in subsection 6 becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

8. The following rules apply to collateral to which a security interest attaches within 4 months after the debtor changes its location to another jurisdiction:

(a) A financing statement filed before the change pursuant to the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral if the debtor had not changed its location.

(b) If a security interest perfected by a financing statement that is effective under paragraph (a) becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 or the expiration of the 4-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

9. If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 and the new debtor is located in another jurisdiction, the following rules apply:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under subsection 4 of NRS 104.9203, if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(b) A security interest perfected by the financing statement which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 or the expiration of the 4-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Sec. 66. NRS 104.9317 is hereby amended to read as follows:

104.9317 1. A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under NRS 104.9322; and

(b) A person that becomes a lien creditor before the earlier of the time:

(1) The security interest or agricultural lien is perfected; or

(2) One of the conditions specified in paragraph (c) of subsection 2 of NRS 104.9203 is met and a financing statement covering the collateral is filed.

2. Except as otherwise provided in subsection 5, a buyer, other than a secured party, of ~~tangible chattel paper,~~ tangible documents, goods,

instruments, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

3. Except as otherwise provided in subsection 5, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

4. ~~4. [A]~~ ***Subject to subsections 6 to 9, inclusive, a*** licensee of a general intangible or a buyer, other than a secured party, of collateral other than ~~tangible chattel paper,~~ tangible documents, ~~electronic money,~~ goods, instruments or a certificated security takes free of a security interest if the licensee ***or buyer*** gives value without knowledge of the security interest and before it is perfected.

5. Except as otherwise provided in NRS 104.9320 and 104.9321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee or lien creditor which arise between the time the security interest attaches and the time of filing.

6. ***A buyer, other than a secured party, of chattel paper takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and:***

(a) Receives delivery of each authoritative tangible copy of the record evidencing the chattel paper; and

(b) If each authoritative electronic copy of the record evidencing the chattel paper can be subjected to control under NRS 104.9105, obtains control of each authoritative electronic copy.

7. ***A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the document can be subjected to control under NRS 104.7106, obtains control of each authoritative electronic copy.***

8. ***A buyer of a controllable electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.***

9. ***A buyer, other than a secured party, of a controllable account or a controllable payment intangible takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable account or controllable payment intangible.***

Sec. 67. NRS 104.9323 is hereby amended to read as follows:

104.9323 1. Except as otherwise provided in subsection 3, for purposes of determining the priority of a perfected security interest under subsection 1

of NRS 104.9322, perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(a) Is made while the security interest is perfected only:

(1) Under NRS 104.9309 when it attaches; or

(2) Temporarily under subsection 5, 6 or 7 of NRS 104.9312; and

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under NRS 104.9309 or subsection 5, 6 or 7 of NRS 104.9312.

2. Except as otherwise provided in subsection 3, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after he or she becomes a lien creditor unless the advance is made:

(a) Without knowledge of the lien; or

(b) Pursuant to a commitment entered into without knowledge of the lien.

3. Subsections 1 and 2 do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

4. Except as otherwise provided in subsection 5, a buyer of goods ~~other than a buyer in the ordinary course of business~~ takes free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the buyer's purchase;

or

(b) Forty-five days after the purchase.

5. Subsection 4 does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

6. Except as otherwise provided in subsection 7, a lessee of goods ~~other than a lessee in ordinary course of business~~ takes the leasehold free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the lease; or

(b) Forty-five days after the lease contract becomes enforceable.

7. Subsection 6 does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

Sec. 68. NRS 104.9324 is hereby amended to read as follows:

104.9324 1. Subject to subsection 2 and except as otherwise provided in subsection 7, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in NRS 104.9330, and, except as otherwise provided in NRS 104.9327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(b) The purchase-money secured party sends ~~an authenticated~~ **a signed** notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 5 years before the debtor receives possession of the inventory; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

2. Paragraphs (b), (c) and (d) of subsection 1 apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under subsection 6 of NRS 104.9312, before the beginning of the 20-day period thereunder.

3. Subject to subsection 5 and except as otherwise provided in subsection 7, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in NRS 104.9327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(b) The purchase-money secured party sends ~~an authenticated~~ **a signed** notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 6 months before the debtor receives possession of the livestock; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

4. Paragraphs (b), (c) and (d) of subsection 3 apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under subsection 6 of NRS 104.9312, before the beginning of the 20-day period thereunder.

5. Except as otherwise provided in subsection 7, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in NRS 104.9327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected

when the debtor receives possession of the collateral or within 20 days thereafter.

6. Except as otherwise provided in subsection 7, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in NRS 104.9327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

7. If more than one security interest qualifies for priority in the same collateral under subsection 1, 3, 5 or 6:

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(b) In all other cases, subsection 1 of NRS 104.9322 applies to the qualifying security interests.

Sec. 69. NRS 104.9330 is hereby amended to read as follows:

104.9330 1. A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value, ~~and~~ takes possession of *each authoritative tangible copy of the record evidencing* the chattel paper ~~or~~ and obtains control *under NRS 104.9105* of *each authoritative electronic copy of the record evidencing* the chattel paper; ~~under NRS 104.9105;~~ and

(b) The ~~chattel paper does~~ *authoritative copies of the record evidencing the chattel paper do* not indicate that ~~it~~ *the chattel paper* has been assigned to an identified assignee other than the purchaser.

2. A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value, ~~and~~ takes possession of *each authoritative tangible copy of the record evidencing* the chattel paper ~~or~~ and obtains control *under NRS 104.9105* of *each authoritative electronic copy of the record evidencing* the chattel paper ~~under NRS 104.9105~~ in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

3. Except as otherwise provided in NRS 104.9327, a purchaser having priority in chattel paper under subsection 1 or 2 also has priority in proceeds of the chattel paper to the extent that:

(a) NRS 104.9322 provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

4. Except as otherwise provided in subsection 1 of NRS 104.9331, a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

5. For purposes of subsections 1 and 2, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

6. For purposes of subsections 2 and 4, if *the authoritative copies of the record evidencing* chattel paper or an instrument ~~indicates~~ *indicate* that ~~it~~ *the chattel paper or instrument* has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Sec. 70. NRS 104.9331 is hereby amended to read as follows:

104.9331 1. This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, ~~for~~ a protected purchaser of a security ~~it~~ *or a qualifying purchaser of a controllable account, controllable electronic record or controllable payment intangible*. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in articles 3, 7, ~~and~~ 8 ~~it~~ *and 12*.

2. This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under article 8 ~~it~~ *or 12*.

3. Filing under this article does not constitute notice of a claim or defense to the holders, ~~for~~ purchasers, or persons described in subsections 1 and 2.

Sec. 71. NRS 104.9332 is hereby amended to read as follows:

104.9332 1. A transferee of ~~tangible~~ money takes the money free of a security interest ~~unless~~ *if* the transferee ~~acts~~ *receives possession of the money without acting* in collusion with the debtor in violating the rights of the secured party.

2. A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account ~~unless~~ *if* the transferee ~~acts~~ *receives the funds without acting* in collusion with the debtor in violating the rights of the secured party.

~~[3. A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.]~~

Sec. 72. NRS 104.9334 is hereby amended to read as follows:

104.9334 1. A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

2. This article does not prevent creation of an encumbrance upon fixtures under real property law.

3. In cases not governed by subsections 4 to 8, inclusive, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

4. Except as otherwise provided in subsection 8, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

- (a) The security interest is a purchase-money security interest;
- (b) The interest of the encumbrancer or owner arises before the goods become fixtures; and
- (c) The security interest is perfected by a fixture filing before the goods become fixtures or within 20 days thereafter.

5. A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(a) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(1) Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(2) Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(b) Before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

(1) Factory or office machines;

(2) Equipment that is not primarily used or leased for use in the operation of the real property; or

(3) Replacements of domestic appliances that are consumer goods;

(c) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(d) The security interest is:

(1) Created in a manufactured home in a manufactured-home transaction; and

(2) Perfected pursuant to a statute described in paragraph (b) of subsection 1 of NRS 104.9311.

6. A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(a) The encumbrancer or owner has, in ~~an authenticated~~ **a signed** record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(b) The debtor has a right to remove the goods as against the encumbrancer or owner.

7. The priority of the security interest under paragraph (b) of subsection 6 continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

8. A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if the recorded record so indicates. Except as otherwise provided in subsections 5 and 6, a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

9. A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

Sec. 73. NRS 104.9341 is hereby amended to read as follows:

104.9341 Except as otherwise provided in subsection 3 of NRS 104.9340, and unless the bank otherwise agrees in ~~an authenticated~~ **a signed** record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended or modified by:

1. The creation, attachment or perfection of a security interest in the deposit account;

2. The bank's knowledge of the security interest; or

3. The bank's receipt of instructions from the secured party.

Sec. 74. NRS 104.9404 is hereby amended to read as follows:

104.9404 1. Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections 2 to 5, inclusive, the rights of an assignee are subject to:

(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment ~~authenticated~~ **signed** by the assignor or the assignee.

2. Subject to subsection 3 and except as otherwise provided in subsection 4, the claim of an account debtor against an assignor may be asserted against an assignee under subsection 1 only to reduce the amount the account debtor owes.

3. This section is subject to law other than this article which establishes a different rule for an account debtor who is a natural person and who incurred the obligation primarily for personal, family or household purposes.

4. In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor

against the assignor may be asserted against an assignee is determined as if the record included such a statement.

5. This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 75. NRS 104.9406 is hereby amended to read as follows:

104.9406 1. Subject to subsections 2 to 8, inclusive, **and 11**, an account debtor on an account, chattel paper or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, ~~authenticated~~ **signed** by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

2. Subject to ~~subsection~~ **subsections 8 ~~and~~ and 11**, notification is ineffective under subsection 1:

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(1) Only a portion of the account, chattel paper or payment intangible has been assigned to that assignee;

(2) A portion has been assigned to another assignee; or

(3) The account debtor knows that the assignment to that assignee is limited.

3. Subject to ~~subsection~~ **subsections 8 ~~and~~ and 11**, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection 1.

4. Except as otherwise provided in ~~subsection~~ **subsections 5 and 10** and NRS 104.9407 and 104A.2303, and subject to subsection 8, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(a) Prohibits, restricts or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in, the account, chattel paper, payment intangible or promissory note; or

(b) Provides that the assignment or transfer, or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination,

or remedy under the account, chattel paper, payment intangible or promissory note.

↪ *As used in this subsection, the term “promissory note” includes a negotiable instrument that evidences chattel paper.*

5. Subsection 4 does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under NRS 104.9610 or an acceptance of collateral under NRS 104.9620.

6. ~~Subject~~ *Except as otherwise provided in subsection 10 and NRS 104.9407 and 104A.2303 and subject* to subsections 7 and 8, a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(b) Provides that the assignment or transfer, or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

7. Subject to ~~subsection~~ *subsections 8 ~~and 11~~*, an account debtor may not waive or vary its option under paragraph (c) of subsection 2.

8. This section is subject to law other than this article which establishes a different rule for an account debtor who is a natural person and who incurred the obligation primarily for personal, family or household purposes.

9. This section does not apply to an assignment of a health-care-insurance receivable or to a transfer of a right to receive payments pursuant to NRS 42.200 to 42.400, inclusive.

10. Subsections 4 and 6 do not apply to a security interest in an ownership interest in a general partnership, limited partnership or limited-liability company.

11. Subsections 1, 2, 3 and 7 do not apply to a controllable account or controllable payment intangible.

Sec. 76. NRS 104.9408 is hereby amended to read as follows:

104.9408 1. Except as otherwise provided in ~~subsection~~ *subsections 2 ~~and 5~~*, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license or franchise, and prohibits, restricts or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable or general intangible, is ineffective to the extent that the term:

(a) Would impair the creation, attachment or perfection of a security interest; or

(b) Provides that the assignment or transfer, or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

2. Subsection 1 applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under NRS 104.9610 or an acceptance of collateral under NRS 104.9620.

3. ~~{A}~~ ***Except as otherwise provided in subsection 5, a*** rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable or general intangible, including a contract, permit, license or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute or regulation:

(a) Would impair the creation, attachment or perfection of a security interest; or

(b) Provides that the assignment or transfer, or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

4. To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection 3 would be effective under law other than this article but is ineffective under subsection 1 or 3, the creation, attachment or perfection of a security interest in the promissory note, health-care-insurance receivable or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable or general intangible;

(e) Does not entitle the secured party to use, assign, possess or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable or general intangible.

5. *This section does not apply to a security interest in an ownership interest in a general partnership, limited partnership or limited-liability company.*

6. *In this section, “promissory note” includes a negotiable instrument that evidences chattel paper.*

Sec. 77. NRS 104.9509 is hereby amended to read as follows:

104.9509 1. A person may file an initial financing statement, amendment that adds collateral covered by a financing statement or amendment that adds a debtor to a financing statement only if:

- (a) The debtor authorizes the filing in ~~an authenticated~~ **a signed** record;
- (b) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien; or
- (c) Otherwise authorized by subsection 2 or 3.

2. By ~~authenticating~~ **signing** or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

- (a) The collateral described in the security agreement; and
- (b) Property that becomes collateral under paragraph (b) of subsection 1 of NRS 104.9315, whether or not the security agreement expressly covers proceeds.

3. A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

- (a) The secured party of record authorizes the filing; or
- (b) The change is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by subsection 1 or 3 of NRS 104.9513.

4. If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection 3.

Sec. 78. NRS 104.9513 is hereby amended to read as follows:

104.9513 1. A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

- (a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation or otherwise give value; or
- (b) The debtor did not authorize the filing of the initial financing statement.

2. To comply with subsection 1, a secured party shall cause the secured party of record to file the termination statement:

(a) Within 1 month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation or otherwise give value; or

(b) If earlier, within 20 days after the secured party receives ~~an authenticated~~ **a signed** demand from a debtor.

3. In cases not governed by subsection 1, within 20 days after a secured party receives ~~an authenticated~~ **a signed** demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation or otherwise give value;

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) The debtor did not authorize the filing of the initial financing statement.

4. Except as otherwise provided in NRS 104.9510, upon the filing of a termination statement with the filing office:

(a) The financing statement to which the termination statement relates ceases to be effective.

(b) For the purposes of subsection 7 of NRS 104.9519, subsection 1 of NRS 104.9522 and subsection 3 of NRS 104.9523, a financing statement that indicates that the debtor is a transmitting utility causes the effectiveness of the financing statement to lapse.

Sec. 79. NRS 104.9601 is hereby amended to read as follows:

104.9601 1. After default, a secured party has the rights provided in this part and, except as otherwise provided in NRS 104.9602, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

2. A secured party in possession of collateral or control of collateral under NRS 104.7106, 104.9104, 104.9105, 104.9106 or 104.9107 **or section ~~2-01~~ 3 of this act** has the rights and duties provided in NRS 104.9207.

3. The rights under subsections 1 and 2 are cumulative and may be exercised simultaneously.

4. Except as otherwise provided in subsection 7 and NRS 104.9605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

5. If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

- (a) The date of perfection of the security interest or agricultural lien in the collateral;
- (b) The date of filing a financing statement covering the collateral; or
- (c) Any date specified in a statute under which the agricultural lien was created.

6. A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

7. Except as otherwise provided in subsection 3 of NRS 104.9607, this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles or promissory notes.

Sec. 80. NRS 104.9605 is hereby amended to read as follows:

104.9605 ~~{A}~~

1. *Except as provided in subsection 2, a* secured party does not owe a duty based on its status as secured party:

~~{1}~~ (a) To a person that is a debtor or obligor, unless the secured party knows:

~~{(a)}~~ (1) That he or she is a debtor or obligor;

~~{(b)}~~ (2) His or her identity; and

~~{(c)}~~ (3) How to communicate with him or her; or

~~{2}~~ (b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

~~{(a)}~~ (1) That the person is a debtor; and

~~{(b)}~~ (2) His or her identity.

2. *A secured party owes a duty based on its status as a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:*

(a) *The person is a debtor or obligor; and*

(b) *The secured party knows that the information in subparagraph (1), (2) or (3) of paragraph (a) of subsection 1 relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral or the system in which the collateral is recorded.*

Sec. 81. NRS 104.9608 is hereby amended to read as follows:

104.9608 1. If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under NRS 104.9607 in the following order to:

(1) The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(3) The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives ~~an authenticated~~ **a signed** demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under subparagraph (3) of paragraph (a).

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under NRS 104.9607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

2. If the underlying transaction is a sale of accounts, chattel paper, payment intangibles or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Sec. 82. NRS 104.9611 is hereby amended to read as follows:

104.9611 1. In this section, "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor ~~an authenticated~~ **a signed** notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

2. Except as otherwise provided in subsection 4, a secured party that disposes of collateral under NRS 104.9610 shall send to the persons specified in subsection 3 a reasonable ~~authenticated~~ **signed** notification of disposition.

3. To comply with subsection 2, the secured party shall send ~~an authenticated~~ **a signed** notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

(1) Any other person from which the secured party has received, before the notification date, ~~an authenticated~~ **a signed** notification of a claim of an interest in the collateral;

(2) Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(I) Identified the collateral;

(II) Was indexed under the debtor's name as of that date; and

(III) Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation or treaty described in subsection 1 of NRS 104.9311.

4. Subsection 2 does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

5. A secured party complies with the requirement for notification prescribed by subparagraph (2) of paragraph (c) of subsection 3 if:

(a) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in that subparagraph; and

(b) Before the notification date, the secured party:

(1) Did not receive a response to the request for information; or

(2) Received a response to the request for information and sent ~~an authenticated~~ **a signed** notification of disposition to each secured party **or other lienholder** named in that response whose financing statement covered the collateral.

Sec. 83. NRS 104.9613 is hereby amended to read as follows:

104.9613 **1.** Except in a consumer-goods transaction, the following rules apply:

~~1-1~~ (a) The contents of a notification of disposition are sufficient if the notification:

~~1-a~~ (1) Describes the debtor and the secured party;

~~1-b~~ (2) Describes the collateral that is the subject of the intended disposition;

~~1-c~~ (3) States the method of intended disposition;

~~1-d~~ (4) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

~~1-e~~ (5) States the time and place of a public disposition or the time after which any other disposition is to be made.

~~2-1~~ (b) Whether the contents of a notification that lacks any of the information specified in ~~subsection 1~~ **paragraph (a)** are nevertheless sufficient is a question of fact.

~~3-1~~ (c) The contents of a notification providing substantially the information specified in ~~subsection 1~~ **paragraph (a)** are sufficient, even if the notification includes:

~~3-a~~ (1) Information not specified by that ~~subsection;~~ **paragraph;** or

~~{(b)}~~ (2) Minor errors that are not seriously misleading.

~~{4}~~ (d) A particular phrasing of the notification is not required.

~~{5}~~ (e) The following form of notification and the form appearing in *paragraph (c) of subsection 3* 1 of NRS 104.9614, when completed ~~{ }~~ *in accordance with the instructions in subsection 2 and subsection 2 of NRS 104.9614*, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: [Name of debtor, obligor, or other person to which the notification is sent]

From: [Name, address, and telephone number of secured party]

~~{1}~~ Name of ~~[Debtor(s): [Include only if debtor(s) are not an addressee]]~~ *any debtor that is not an addressee*

~~[[For a public disposition:]]~~ : [Name of each debtor]

~~{2}~~ We will sell ~~[[or lease or license, as applicable]]~~ the ~~[describe collateral]~~ [to the highest qualified bidder] ~~[[in]]~~ *at public sale. A sale could include a lease or license. The sale will be held* as follows:

~~[[Day and]]~~ Date:

Time:

Place:

~~[[For a private disposition:]]~~

~~{3}~~ We will sell ~~[[or lease or license, as applicable]]~~ the ~~[describe collateral]~~ ~~[[privately]]~~ *at private sale* sometime after ~~[[day and]]~~ [date]. *A sale could include a lease or license.*

~~{4}~~ You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell ~~[[or lease]]~~ or, ~~[[license,]]~~ *as applicable* ~~[[for a charge of \$.....]. You may]]~~, *lease or license.*

~~{5}~~ *If you* request an accounting *you must pay a charge of \$ [amount].*

~~{6}~~ *You may request an accounting* by calling us at [telephone number].

2. *The following instructions apply to the form of notification in paragraph (e) of subsection 1:*

(a) *The instructions in this subsection refer to the numbers in braces before items in the form of notification in paragraph (e) of subsection 1. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.*

(b) *Include and complete item {1} only if there is a debtor that is not an addressee of the notification and list the name or names.*

(c) *Include and complete either item {2}, if the notification relates to a public disposition of the collateral, or item {3}, if the notification relates to a private disposition of the collateral. If item {2} is included, include the words “to the highest qualified bidder” only if applicable.*

(d) *Include and complete items {4} and {6}.*

(e) *Include and complete item {5} only if the sender will charge the recipient for an accounting.*

Sec. 84. NRS 104.9614 is hereby amended to read as follows:

104.9614 **1.** In a consumer-goods transaction, the following rules apply:

~~{1-}~~ (a) A notification of disposition must provide the following information:

~~{(a)}~~ (1) The information specified in *paragraph (a) of* subsection 1 of NRS 104.9613;

~~{(b)}~~ (2) A description of any liability for a deficiency of the person to which the notification is sent;

~~{(c)}~~ (3) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under NRS 104.9623 is available; and

~~{(d)}~~ (4) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

~~{2-}~~ (b) A particular phrasing of the notification is not required.

~~{3-}~~ (c) The following form of notification, when completed ~~{ }~~ *in accordance with the instructions in subsection 2*, provides sufficient information:

[Name and address of secured party]

[Date]

NOTICE OF OUR PLAN TO SELL PROPERTY

[Name and address of any obligor who is also a debtor]

Subject: ~~[[Identification of]]~~ *[[Identify Transaction]]*

We have your [describe collateral], because you broke promises in our agreement.

~~[[For a public disposition:]]~~

{1} We will sell [describe collateral] at public sale. A sale could include a lease or license. The sale will be held as follows:

Date:

Time:

Place:

You may attend the sale and bring bidders if you want.

~~[[For a private disposition:]]~~

{2} We will sell [describe collateral] at private sale sometime after [date]. A sale could include a lease or license.

{3} The money that we get from the sale, ~~{4}~~ after paying our costs, ~~{5}~~ will reduce the amount you owe. If we get less money than you owe, you [will or will not, as applicable] still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

{4} You can get the property back at any time before we sell it by paying us the full amount you owe, ~~{5}~~ not just the past due payments, ~~{6}~~ including our expenses. To learn the exact amount you must pay, call us at [telephone number].

{5} If you want us to explain to you in [writing] ***[writing or in [description of electronic record]] [description of electronic record]*** how we have figured the amount that you owe us, ~~{you may}~~ {6} call us at [telephone number] [or write us at [secured party's address]] ***[or contact us by [description of electronic communication method]]*** {7} and request [a written explanation {8}] ***[a written explanation or an explanation in [description of electronic record]] [an explanation in [description of electronic document]].***

{8} ~~{9}~~ We will charge you [\$.....] \$ ***[amount]*** for the explanation if we sent you another written explanation of the amount you owe us within the last 6 months. ~~{10}~~

{9} If you need more information about the sale [call us at [telephone number]] [or write us at [secured party's address]] ~~{10}~~ ***[or contact us by [description of electronic communication method]].***

{10} We are sending this notice to the following other people who have an interest in [describe collateral] or who owe money under your agreement:

[Names of all other debtors and obligors, if any]

~~{4-}~~ (d) A notification in the form of ~~{subsection 3-}~~ ***paragraph (c)*** is sufficient, even if additional information appears at the end of the form.

~~{5-}~~ (e) A notification in the form of ~~{subsection 3-}~~ ***paragraph (c)*** is sufficient, even if it includes errors in information not required by ~~{subsection 4-}~~ ***paragraph (c)*** unless the error is misleading with respect to rights arising under this article.

~~{6-}~~ (f) If a notification under this section is not in the form of ~~{subsection 3-}~~ ***paragraph (c)***, law other than this article determines the effect of including information not required by subsection 1.

2. *The following instructions apply to the form of notification in paragraph (c) of subsection 1:*

(a) The instructions in this subsection refer to the numbers in braces before items in the form of notification in paragraph (c) of subsection 1. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(b) Include and complete either item {1}, if the notification relates to a public disposition of the collateral, or item {2}, if the notification relates to a private disposition of the collateral.

(c) Include and complete items {3}, {4}, {5}, {6} and {7}.

(d) In item {5}, include and complete any one of the three alternative methods for the explanation—writing, writing or electronic record, or electronic record.

(e) In item {6}, include the telephone number. In addition, the sender may include and complete either or both of the two additional alternative methods of communication—writing or electronic communication—for the recipient of the notification to communicate with the sender. Neither of the two additional methods of communication is required to be included.

(f) In item {7}, include and complete the method or methods for the explanation—writing, writing or electronic record, or electronic record—included in item {5}.

(g) Include and complete item {8} only if a written explanation is included in item {5} as a method for communicating the explanation and the sender will charge the recipient for another written explanation.

(h) In item {9}, include either the telephone number or the address or both the telephone number and the address. In addition, the sender may include and complete the additional method of communication—electronic communication—for the recipient of the notification to communicate with the sender. The additional method of electronic communication is not required to be included.

(i) If item {10} does not apply, insert “None” after “agreement.”

Sec. 85. NRS 104.9615 is hereby amended to read as follows:

104.9615 1. A secured party shall apply or pay over for application the cash proceeds of disposition under NRS 104.9610 in the following order to:

(a) The reasonable expenses of retaking, holding, preparing for disposition, processing and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney’s fees and legal expenses incurred by the secured party;

(b) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(c) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(1) The secured party receives from the holder of the subordinate security interest or other lien ~~an authenticated~~ **a signed** demand for proceeds before distribution of the proceeds is completed; and

(2) In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(d) A secured party that is a consignor of the collateral if the secured party receives from the consignor ~~[an authenticated]~~ **a signed** demand for proceeds before distribution of the proceeds is completed.

2. If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under paragraph (c) of subsection 1.

3. A secured party need not apply or pay over for application noncash proceeds of disposition under NRS 104.9610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

4. If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection 1 and permitted by subsection 3:

(a) Unless paragraph (d) of subsection 1 requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(b) The obligor is liable for any deficiency.

5. If the underlying transaction is a sale of accounts, chattel paper, payment intangibles or promissory notes:

(a) The debtor is not entitled to any surplus; and

(b) The obligor is not liable for any deficiency.

6. The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party or a secondary obligor if:

(a) The transferee in the disposition is the secured party, a person related to the secured party or a secondary obligor; and

(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party or a secondary obligor would have brought.

7. A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(a) Takes the cash proceeds free of the security interest or other lien;

(b) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(c) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Sec. 86. NRS 104.9616 is hereby amended to read as follows:

104.9616 1. In this section:

(a) “Explanation” means a ~~writing~~ **record** that:

- (1) States the amount of the surplus or deficiency;
- (2) Provides an explanation in accordance with subsection 3 of how the secured party calculated the surplus or deficiency;
- (3) States, if applicable, that future debits, credits, charges, including additional credit service charges or interest rebates, and expenses may affect the amount of the surplus or deficiency; and
- (4) Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(b) “Request” means a record:

- (1) ~~Authenticated~~ **Signed** by a debtor or consumer obligor;
- (2) Requesting that the recipient provide an explanation; and
- (3) Sent after disposition of the collateral under NRS 104.9610.

2. In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under NRS 104.9615, the secured party shall:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(1) Before or when the secured party accounts to the debtor and pays any surplus or first makes ~~written~~ demand **in a record** on the consumer obligor after the disposition for payment of the deficiency; and

(2) Within 14 days after receipt of a request; or

(b) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party’s right to a deficiency.

3. To comply with subparagraph (2) of paragraph (a) of subsection 1, ~~a writing~~ **an explanation** must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(1) If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

(2) If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(b) The amount of proceeds of the disposition;

(c) The aggregate amount of the obligations after deducting the amount of proceeds;

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing

and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (a); and

(f) The amount of the surplus or deficiency.

4. A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of paragraph (a) of subsection 1 is sufficient, even if it includes minor errors that are not seriously misleading.

5. A debtor or consumer obligor is entitled without charge to one response to a request under this section during any 6-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to paragraph (a) of subsection 2. The secured party may require payment of a charge not exceeding \$25 for each additional response.

Sec. 87. NRS 104.9619 is hereby amended to read as follows:

104.9619 1. In this section, "transfer statement" means a record ~~[authenticated]~~ **signed** by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its postdefault remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor and transferee.

2. A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(a) Accept the transfer statement;

(b) Promptly amend its records to reflect the transfer; and

(c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

3. A transfer of the record or legal title to collateral to a secured party under subsection 2 or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

Sec. 88. NRS 104.9620 is hereby amended to read as follows:

104.9620 1. Except as otherwise provided in subsection 7, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection 3;

(b) The secured party does not receive, within the time set forth in subsection 4, a notification of objection to the proposal ~~[authenticated]~~ **signed** by:

(1) A person to which the secured party was required to send a proposal under NRS 104.9621; or

(2) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection 5 does not require the secured party to dispose of the collateral.

2. A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in ~~[an authenticated]~~ **a signed** record or sends a proposal to the debtor; and

(b) The conditions of subsection 1 are met.

3. For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record ~~[authenticated]~~ **signed** after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record ~~[authenticated]~~ **signed** after default or the secured party:

(1) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(2) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(3) Does not receive a notification of objection ~~[authenticated]~~ **signed** by the debtor within 20 days after the proposal is sent.

4. To be effective under paragraph (b) of subsection 1, a notification of objection must be received by the secured party:

(a) In the case of a person to which the proposal was sent pursuant to NRS 104.9621, within 20 days after notification was sent to the person; and

(b) In other cases:

(1) Within 20 days after the last notification was sent pursuant to NRS 104.9621; or

(2) If a notification was not sent, before the debtor consents to the acceptance under subsection 3.

5. A secured party that has taken possession of collateral shall dispose of the collateral pursuant to NRS 104.9610 within the time specified in subsection 6 if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

6. To comply with subsection 5, the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and ~~authenticated~~ **signed** after default.

7. In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 89. NRS 104.9621 is hereby amended to read as follows:

104.9621 1. A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(a) Any person from which the secured party has received, before the debtor consented to the acceptance, ~~an authenticated~~ **a signed** notification of a claim of an interest in the collateral;

(b) Any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(1) Identified the collateral;

(2) Was indexed under the debtor's name as of that date; and

(3) Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(c) Any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation or treaty described in subsection 1 of NRS 104.9311.

2. A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection 1.

Sec. 90. NRS 104.9624 is hereby amended to read as follows:

104.9624 1. A debtor or secondary obligor may waive the right to notification of disposition of collateral under NRS 104.9611 only by an agreement to that effect entered into and ~~authenticated~~ **signed** after default.

2. ***A debtor may waive the right to require disposition of collateral under subsection 5 of NRS 104.9620 only by an agreement to that effect entered into and signed after default.***

3. Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under NRS 104.9623 only by an agreement to that effect entered into and ~~authenticated~~ **signed** after default.

Sec. 91. NRS 104.9628 is hereby amended to read as follows:

104.9628 1. ~~Unless~~ ***Subject to subsection 6, unless*** a secured party knows that a person is a debtor or obligor, knows his or her identity, and knows how to communicate with him or her:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against him or her, for failure to comply with this article; and

(b) The secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

2. ~~1A~~ **Subject to subsection 6, a** secured party is not liable because of its status as a secured party:

(a) To a person that is a debtor or obligor, unless the secured party knows:

(1) That he or she is a debtor or obligor;

(2) His or her identity; and

(3) How to communicate with him or her; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(1) That he or she is a debtor; and

(2) His or her identity.

3. A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to be used, acquired or held; or

(b) An obligor's representation concerning the purpose for which a secured obligation was incurred.

4. A secured party is not liable to any person under paragraph (b) of subsection 3 of NRS 104.9625 for its failure to comply with NRS 104.9616.

5. A secured party is not liable under paragraph (b) of subsection 3 of NRS 104.9625 more than once with respect to any one secured obligation.

6. *Subsections 1 and 2 do not apply to limit the liability of a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:*

(a) The person is a debtor or obligor; and

(b) The secured party knows that the information specified in subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral or the system in which the collateral is recorded.

Sec. 92. NRS 104A.2102 is hereby amended to read as follows:

104A.2102 **1.** This article applies to any transaction, regardless of form, that creates a lease ~~and~~ **and, in the case of a hybrid lease, it applies to the extent provided in subsection 2.**

2. In a hybrid lease:

(a) If the lease-of-goods aspects do not predominate:

(1) Only the provisions of this Article which relate primarily to the lease-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply;

(2) NRS 104A.2209 applies if the lease is a finance lease; and

(3) NRS 104A.2407 applies to the promises of the lessee in a finance lease to the extent the promises are consideration for the right to possession and use of the leased goods.

(b) If the lease-of-goods aspects predominate, this Article applies to the transaction, but this does not preclude application in appropriate circumstances of other law to the aspects of the lease which do not relate to the lease of goods.

Sec. 93. NRS 104A.2103 is hereby amended to read as follows:

104A.2103 1. In this Article unless the context otherwise requires:

(a) “Buyer in ordinary course of business” means a person who, in good faith and without knowledge that the sale to him or her is in violation of the ownership, rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. “Buying” may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) “Cancellation” occurs when either party puts an end to the lease contract for default by the other party.

(c) “Commercial unit” means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single Article, as a machine, or a set of Articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) “Conforming” goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) “Consumer lease” means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is a natural person and who takes under the lease primarily for a personal, family or household purpose.

(f) “Fault” means wrongful act, omission, breach or default.

(g) “Finance lease” means a lease with respect to which:

(1) The lessor does not select, manufacture or supply the goods;

(2) The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(3) One of the following occurs:

(I) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(II) The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(III) The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(IV) If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, that the lessee is entitled under this Article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (NRS 104A.2309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) ***"Hybrid lease" means a single transaction involving a lease of goods and:***

(1) The provision of services;

(2) A sale of other goods; or

(3) A sale, lease or license of property other than goods.

(j) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

~~{(j)}~~ ***(k)*** "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

~~{{(k)}}~~ (l) “Lease agreement” means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

~~{{(4)}}~~ (m) “Lease contract” means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

~~{{(m)}}~~ (n) “Leasehold interest” means the interest of the lessor or the lessee under a lease contract.

~~{{(n)}}~~ (o) “Lessee” means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

~~{{(o)}}~~ (p) “Lessee in ordinary course of business” means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. “Leasing” may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

~~{{(p)}}~~ (q) “Lessor” means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

~~{{(q)}}~~ (r) “Lessor’s residual interest” means the lessor’s interest in the goods after expiration, termination or cancellation of the lease contract.

~~{{(r)}}~~ (s) “Lien” means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

~~{{(s)}}~~ (t) “Lot” means a parcel or a single Article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

~~{{(t)}}~~ (u) “Merchant lessee” means a lessee that is a merchant with respect to goods of the kind subject to the lease.

~~{{(u)}}~~ (v) “Present value” means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

~~{{(v)}}~~ (w) “Purchase” includes taking by sale, lease, mortgage, security interest, pledge, gift or any other voluntary transaction creating an interest in goods.

~~{{(w)}}~~ (x) “Sublease” means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

~~{{(x)}}~~ (y) “Supplier” means a person from whom a lessor buys or leases goods to be leased under a finance lease.

~~{{(y)}}~~ (z) “Supply contract” means a contract under which a lessor buys or leases goods to be leased.

~~{{(z)}}~~ (aa) “Termination” occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

2. Other definitions applying to this Article and the sections in which they appear are:

“Accessions.” NRS 104A.2310.

“Construction mortgage.” NRS 104A.2309.

“Encumbrance.” NRS 104A.2309.

“Fixtures.” NRS 104A.2309.

“Fixture filing.” NRS 104A.2309.

“Purchase money lease.” NRS 104A.2309.

3. The following definitions in other Articles apply to this Article:

“Account.” NRS 104.9102.

“Between merchants.” NRS 104.2104.

“Buyer.” NRS 104.2103.

“Chattel paper.” NRS 104.9102.

“Consumer goods.” NRS 104.9102.

“Document.” NRS 104.9102.

“Entrusting.” NRS 104.2403.

“General intangible.” NRS 104.9102.

“Instrument.” NRS 104.9102.

“Merchant.” NRS 104.2104.

“Mortgage.” NRS 104.9102.

“Pursuant to commitment.” NRS 104.9102.

“Receipt.” NRS 104.2103.

“Sale.” NRS 104.2106.

“Sale on approval.” NRS 104.2326.

“Sale or return.” NRS 104.2326.

“Seller.” NRS 104.2103.

4. In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 94. NRS 104A.2107 is hereby amended to read as follows:

104A.2107 Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a ~~written~~ waiver or renunciation *in a* signed ~~and~~ **record** delivered by the aggrieved party.

Sec. 95. NRS 104A.2201 is hereby amended to read as follows:

104A.2201 1. A lease contract is not enforceable by way of action or defense unless:

(a) The total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than \$1,000; or

(b) There is a ~~writing~~ **record**, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

2. Any description of leased goods or of the lease term is sufficient and satisfies paragraph (b) of subsection 1, whether or not it is specific, if it reasonably identifies what is described.

3. A ~~writing~~ **record** is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under paragraph (b) of subsection 1 beyond the lease term and the quantity of goods shown in the ~~writing~~ **record**.

4. A lease contract that does not satisfy the requirements of subsection 1, but which is valid in other respects, is enforceable:

(a) If the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

(b) If the party against whom enforcement is sought admits in that party's pleading, testimony or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) With respect to goods that have been received and accepted by the lessee.

5. The lease term under a lease contract referred to in subsection 4 is:

(a) If there is a ~~writing~~ **record** signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(b) If the party against whom enforcement is sought admits in that party's pleading, testimony or otherwise in court a lease term, the term so admitted; or

(c) A reasonable lease term.

Sec. 96. NRS 104A.2202 is hereby amended to read as follows:

104A.2202 Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a ~~{writing}~~ **record** intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

1. By course of dealing or usage of trade or by course of performance; and
2. By evidence of consistent additional terms,

~~{→}~~ unless the court finds the ~~{writing}~~ **record** to have been intended also as a complete and exclusive statement of the terms of the agreement.

Sec. 97. NRS 104A.2203 is hereby amended to read as follows:

104A.2203 The affixing of a seal to a ~~{writing}~~ **record** evidencing a lease contract or an offer to enter into a lease contract does not render the ~~{writing}~~ **record** a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.

Sec. 98. NRS 104A.2205 is hereby amended to read as follows:

104A.2205 An offer by a merchant to lease goods to or from another person in a signed ~~{writing}~~ **record** that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed 3 months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Sec. 99. NRS 104A.2208 is hereby amended to read as follows:

104A.2208 1. An agreement modifying a lease contract needs no consideration to be binding.

2. A signed lease agreement that excludes modification or rescission except by a signed ~~{writing}~~ **record** may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

3. Although an attempt at modification or rescission does not satisfy the requirements of subsection 2, it may operate as a waiver.

4. A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

Sec. 100. NRS 104A.4103 is hereby amended to read as follows:

104A.4103 1. In this article:

(a) “Payment order” means an instruction of a sender to a receiving bank, transmitted orally ~~[, electronically or in writing,]~~ **or in a record**, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(1) The instruction does not state a condition to payment to the beneficiary other than time of payment;

(2) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and

(3) The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.

(b) “Beneficiary” means the person to be paid by the beneficiary’s bank.

(c) “Beneficiary’s bank” means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

(d) “Receiving bank” means the bank to which the sender’s instruction is addressed.

(e) “Sender” means the person giving the instruction to the receiving bank.

2. If an instruction complying with paragraph (a) of subsection 1 is to make more than one payment to a beneficiary, the instruction is a separate payment order with respect to each payment.

3. A payment order is issued when it is sent to the receiving bank.

Sec. 101. NRS 104A.4201 is hereby amended to read as follows:

104A.4201 1. “Security procedure” means a procedure established by agreement of a customer and a receiving bank ~~to~~ **for the purpose of:**

(a) ~~[Verify]~~ **Verifying** that a payment order or communication amending or cancelling a payment order is that of the customer; or

(b) ~~[Detect]~~ **Detecting** error in the transmission or the content of the payment order or communication.

2. A security procedure **may impose an obligation on the receiving bank or the customer and** may require the use of algorithms or other codes, identifying words , ~~for~~ numbers, **symbols, sounds, biometrics**, encryption, callback procedures or similar security devices.

3. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer **or requiring a payment order to be sent from a known electronic mail address, Internet Protocol address or telephone number** is not by itself a security procedure.

Sec. 102. NRS 104A.4202 is hereby amended to read as follows:

104A.4202 1. A payment order received by the receiving bank is the authorized order of the person identified as sender if the person authorized the order or is otherwise bound by it under the law of agency.

2. If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and the bank proves that it accepted the payment order in good faith and in compliance with **the bank’s obligations under** the security procedure and any ~~[written]~~ agreement or instruction of the customer , **evidenced by a record**, restricting acceptance of payment orders

issued in the name of the customer. The bank is not required to follow an instruction that violates ~~[a written]~~ *an* agreement with the customer, ***evidenced by a record***, or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

3. Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if:

(a) The security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer; and

(b) The customer expressly agreed in ~~[writing]~~ ***a record*** to be bound by any payment order, whether or not authorized, issued in its name and accepted by the bank in compliance with ***the bank's obligations under*** the security procedure chosen by the customer.

4. The term “sender” in this article includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under subsection 1, or it is effective as the order of the customer under subsection 2.

5. This section applies to amendments and cancellations of payment orders to the same extent it applies to payment orders.

6. Except as otherwise provided in this section and in paragraph (a) of subsection 1 of NRS 104A.4203, rights and obligations arising under this section or NRS 104A.4203 may not be varied by agreement.

Sec. 103. NRS 104A.4203 is hereby amended to read as follows:

104A.4203 1. If an accepted payment order is not, under subsection 1 of NRS 104A.4202, an authorized order of a customer identified as sender, but is effective as an order of the customer pursuant to subsection 2 of NRS 104A.4202, the following rules apply:

(a) By express ~~[written]~~ agreement ~~[,]~~ ***evidenced by a record***, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

(b) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person:

(1) Entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure; or

(2) Who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving bank, information facilitating breach of the security procedure,

regardless of how the information was obtained or whether the customer was at fault.

↪ Information includes any access device, computer software, or the like.

2. This section applies to amendments of payment orders to the same extent it applies to payment orders.

Sec. 104. NRS 104A.4207 is hereby amended to read as follows:

104A.4207 1. Except as otherwise provided in subsection 2, if, in a payment order received by the beneficiary's bank, the name, bank account number or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

2. If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules apply:

(a) Except as otherwise provided in subsection 3, if the beneficiary's bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

(b) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

3. If a payment order described in subsection 2 is accepted, the originator's payment order described the beneficiary inconsistently by name and number, and the beneficiary's bank pays the person identified by number as permitted by paragraph (a) of subsection 2, the following rules apply:

(a) If the originator is a bank, the originator is obliged to pay its order.

(b) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identified a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a ~~writing~~ **record** stating the information to which the notice relates.

4. In a case governed by paragraph (a) of subsection 2, if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

(a) If the originator is obliged to pay its payment order as stated in subsection 3, the originator has the right to recover.

(b) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

Sec. 105. NRS 104A.4208 is hereby amended to read as follows:

104A.4208 1. If a payment order identifies an intermediary bank or the beneficiary's bank only by an identifying number, the following rules apply:

(a) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

(b) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

2. If a payment order identifies an intermediary bank or the beneficiary's bank both by name and an identifying number and the name and number identify different persons, the following rules apply:

(a) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(b) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by paragraph (a), as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a ~~writing~~ **record** stating the information to which the notice relates.

(c) Whether or not the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

(d) If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in paragraph (a) of subsection 1 of NRS 104A.4302.

Sec. 106. NRS 104A.4210 is hereby amended to read as follows:

104A.4210 1. A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally ~~[-electronically]~~ or in ~~[-writing.]~~ **a record.** A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, any means complying with the agreement is reasonable and any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

2. If a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order, the following rules apply:

(a) If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is cancelled pursuant to subsection 4 of NRS 104A.4211 or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day.

(b) If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

3. If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

4. Acceptance of a payment order precludes a later rejection of the order. Rejection of a payment order precludes a later acceptance of the order.

Sec. 107. NRS 104A.4211 is hereby amended to read as follows:

104A.4211 1. A communication of the sender of a payment order cancelling or amending the order may be transmitted to the receiving bank orally ~~[-electronically]~~ or in ~~[-writing.]~~ **a record.** If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

2. Except as otherwise provided in subsection 1, a communication by the sender cancelling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

3. After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer

system rule allows cancellation or amendment without agreement of the bank. The following rules also apply:

(a) With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

(b) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a payment order that is a duplicate of a payment order previously issued by the sender, that orders payment to a beneficiary not entitled to receive payment from the originator, or that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is cancelled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

4. An unaccepted payment order is cancelled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

5. A cancelled payment order cannot be accepted. If an accepted payment order is cancelled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

6. Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorney's fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

7. A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

8. A funds-transfer system rule is not effective to the extent it conflicts with paragraph (b) of subsection 3.

Sec. 108. NRS 104A.4305 is hereby amended to read as follows:

104A.4305 1. If a funds transfer is completed but execution of a payment order by the receiving bank in breach of NRS 104A.4302 results in delay in payment to the beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay

caused by the improper execution. Except as otherwise provided in subsection 3, additional damages are not recoverable.

2. If execution of a payment order by a receiving bank in breach of NRS 104A.4302 results in noncompletion of the funds transfer, failure to use an intermediary bank designated by the originator, or issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for its expenses in the funds transfer and for incidental expenses and interest losses, to the extent not covered by subsection 1, resulting from the improper execution. Except as otherwise provided in subsection 3, additional damages are not recoverable.

3. In addition to the amounts payable under subsections 1 and 2, damages, including consequential damages, are recoverable to the extent provided in an express ~~written~~ agreement of the receiving bank ~~[-]~~, *evidenced by a record*.

4. If a receiving bank fails to execute a payment order it was obliged by express agreement to execute, the receiving bank is liable to the sender for its expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express ~~written~~ agreement of the receiving bank, *evidenced by a record*, but are not otherwise recoverable.

5. Reasonable attorney's fees are recoverable if demand for compensation under subsection 1 or 2 is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under subsection 4 and the agreement does not provide for damages, reasonable attorney's fees are recoverable if demand for compensation under subsection 4 is made and refused before an action is brought on the claim.

6. Except as stated in this section, the liability of a receiving bank under subsections 1 and 2 may not be varied by agreement.

Sec. 109. NRS 32.265 is hereby amended to read as follows:

32.265 1. The court may not appoint a person as receiver unless the person submits to the court a statement under penalty of perjury that the person is not disqualified.

2. Except as otherwise provided in subsection 3, a person is disqualified from appointment as receiver if the person:

- (a) Is an affiliate of a party;
- (b) Has an interest materially adverse to an interest of a party;
- (c) Has a material financial interest in the outcome of the action, other than compensation the court may allow the receiver;
- (d) Has a debtor-creditor relationship with a party; or
- (e) Holds an equity interest in a party, other than a noncontrolling interest in a publicly traded company.

3. A person is not disqualified from appointment as receiver solely because the person:

(a) Was appointed receiver or is owed compensation in an unrelated matter involving a party or was engaged by a party in a matter unrelated to the receivership;

(b) Is an individual obligated to a party on a debt that is not in default and was incurred primarily for personal, family or household purposes; or

(c) Maintains with a party a deposit account as defined in paragraph ~~((ee))~~ **(ff)** of subsection 1 of NRS 104.9102.

4. A person seeking appointment of a receiver may nominate a person to serve as receiver, but the court is not bound by the nomination.

Sec. 110. NRS 482.31776 is hereby amended to read as follows:

482.31776 1. A consignee of a vehicle shall, upon entering into a consignment contract or other form of agreement to sell a vehicle owned by another person:

(a) Open and maintain a separate trust account in a federally insured bank, savings and loan association or savings bank that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the vehicle. A consignee of a vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the vehicle subject to the consignment contract or agreement; or

(2) Use any money in the trust account to pay his or her operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

IMPORTANT NOTICE TO VEHICLE OWNERS

State law (NRS 482.31776) requires that the operator of this business file a Uniform Commercial Code 1 (UCC1) form with the Office of the Secretary of State on your behalf to protect your interest in your vehicle. The form is required to protect your vehicle from forfeiture in the event that the operator of this business fails to meet his or her financial obligations to a third party holding a security interest in his or her inventory. The form must be filed by the operator of this business before the operator may take possession of your vehicle. If the form is not filed as required, **YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN.** For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada
Uniform Commercial Code Division
(775) 684-7100

I understand and acknowledge the above disclosure.

.....
Consignee Signature Date

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the vehicle, a financing statement of the type described in subsection 5 of NRS 104.9317 and shall file the financing statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending ~~[an authenticated]~~ **a signed** notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in a vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the vehicle is made.

4. The provisions of this section do not apply to:

(a) An executor;

(b) An administrator;

(c) A sheriff;

(d) A salvage pool subject to the provisions of NRS 487.400 to 487.510, inclusive; or

(e) Any other person who sells a vehicle pursuant to the powers or duties granted to or imposed on him or her by specific statute.

5. Notwithstanding any provision of NRS 482.423 to 482.4245, inclusive, to the contrary, a vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer in accordance with NRS 482.423 to 482.4245, inclusive, by

displaying a temporary placard to operate the vehicle unless the operation of the vehicle is authorized by the express written consent of the consignor.

6. A vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer in accordance with NRS 482.320 by displaying a special plate unless the operation of the vehicle is authorized by the express written consent of the consignor.

7. A consignee shall maintain a written log for each vehicle for which he or she has entered into a consignment contract. The written log must include:

- (a) The name and address, or place of residence, of the consignor;
- (b) A description of the vehicle consigned, including the year, make, model and serial or identification number of the vehicle;
- (c) The date on which the consignment contract is entered into;
- (d) The period that the vehicle is to be consigned;
- (e) The minimum agreed upon sales price for the vehicle;
- (f) The approximate amount of money due any lienholder or other person known to have an interest in the vehicle;
- (g) If the vehicle is sold, the date on which the vehicle is sold;
- (h) The date that the money due the consignor and the lienholder was paid;
- (i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and
- (j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.

8. A person who:

(a) Appropriates, diverts or otherwise converts to his or her own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 111. NRS 490.160 is hereby amended to read as follows:

490.160 1. A consignee of an off-highway vehicle shall, upon entering into a consignment contract or other form of agreement to sell an off-highway vehicle owned by another person:

(a) Open and maintain a separate trust account in a federally insured bank, savings and loan association or savings bank that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the off-highway vehicle. A consignee of an off-highway vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the off-highway vehicle subject to the consignment contract or agreement; or

(2) Use any money in the trust account to pay his or her operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the off-highway vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

IMPORTANT NOTICE TO OFF-HIGHWAY VEHICLE OWNERS

State law (NRS 490.160) requires that the operator of this business file a Uniform Commercial Code 1 (UCC1) form with the Office of the Secretary of State on your behalf to protect your interest in your off-highway vehicle. The form is required to protect your off-highway vehicle from forfeiture in the event that the operator of this business fails to meet his or her financial obligations to a third party holding a security interest in his or her inventory. The form must be filed by the operator of this business before the operator may take possession of your off-highway vehicle. If the form is not filed as required, **YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN**. For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada
Uniform Commercial Code Division
(775) 684-5708

I understand and acknowledge the above disclosure.

.....
Consignee Signature	Date

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the off-highway vehicle, a financing statement of the type described in subsection 5 of NRS 104.9317 and shall file the financing statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending ~~an authenticated~~ **a signed** notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the off-highway vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the off-highway vehicle, the consignee shall forthwith:

- (a) Satisfy or cause to be satisfied all outstanding security interests in the off-highway vehicle; and
- (b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in an off-highway vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the off-highway vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the off-highway vehicle is made.

4. The provisions of this section do not apply to:

- (a) An executor;
- (b) An administrator;
- (c) A sheriff; or
- (d) Any other person who sells off-highway vehicles pursuant to the powers or duties granted to or imposed on him or her by specific statute.

5. Notwithstanding any provision of the Nevada Revised Statutes to the contrary, an off-highway vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer unless the operation of the off-highway vehicle is authorized by the express written consent of the consignor.

6. A consignee shall maintain a written log for each off-highway vehicle for which he or she has entered into a consignment contract. The written log must include:

- (a) The name and address, or place of residence, of the consignor;
- (b) A description of the off-highway vehicle consigned, including the year, make, model and unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 of the off-highway vehicle;
- (c) The date on which the consignment contract is entered into;
- (d) The period that the off-highway vehicle is to be consigned;
- (e) The minimum agreed upon sales price for the off-highway vehicle;
- (f) The approximate amount of money due any lienholder or other person known to have an interest in the off-highway vehicle;
- (g) If the off-highway vehicle is sold, the date on which the off-highway vehicle is sold;
- (h) The date that the money due the consignor and the lienholder was paid;

(i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and

(j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.

7. A person who:

(a) Appropriates, diverts or otherwise converts to his or her own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 112. NRS 719.330 is hereby amended to read as follows:

719.330 1. In this section, “transferable record” means an electronic record that:

(a) Would be a note under NRS 104.3101 to 104.3605, inclusive, or a document under NRS 104.7101 to 104.7603, inclusive, if the electronic record were in writing; and

(b) The issuer of the electronic record expressly has agreed is a transferable record.

2. A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes him or her as the person to whom the transferable record was issued or transferred.

3. A system satisfies subsection 2, and a person is deemed to have control of a transferable record, if the transferable record is created, stored and assigned in such a manner that:

(a) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (d), (e) and (f), unalterable;

(b) The authoritative copy identifies the person asserting control as:

(1) The person to whom the transferable record was issued; or

(2) If the authoritative copy indicates that the transferable record has been transferred, the person to whom the transferable record was most recently transferred;

(c) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

4. Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in paragraph ~~[(u)]~~ (v) of subsection 2 of NRS 104.1201, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under NRS 104.7501 or 104.9308 or subsection 1 of NRS 104.3302 are satisfied, the rights and defenses of a holder to whom a negotiable document of title has been duly negotiated, a purchaser, or a holder in due course, respectively. Delivery, possession and endorsement are not required to obtain or exercise any of the rights under this subsection.

5. Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

6. If requested by a person against whom enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

Assemblywoman Backus moved the adoption of the amendment.

Remarks by Assemblywoman Backus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Concurrent Resolution No. 2.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Gary Watson.

On request of Assemblywoman Backus, the privilege of the floor of the Assembly Chamber for this day was extended to Dena Potestio and Rebecca Reeves.

On request of Assemblyman Carter, the privilege of the floor of the Assembly Chamber for this day was extended to Rosalind Wilkes, Amie Duford, and Rolando Flores.

On request of Assemblywoman Cohen, the privilege of the floor of the Assembly Chamber for this day was extended to Madison Margaret Marie Johnson.

On request of Assemblywoman Considine, the privilege of the floor of the Assembly Chamber for this day was extended to Guadalupe Mercado and Jennie Briggs.

On request of Assemblywoman Gorelow, the privilege of the floor of the Assembly Chamber for this day was extended to Deanna Lievas, Kanie Kastroll, and Phil Jaynes.

On request of Assemblyman Gray, the privilege of the floor of the Assembly Chamber for this day was extended to Dan Rathbun.

On request of Assemblywoman Kasama, the privilege of the floor of the Assembly Chamber for this day was extended to Alexandra Sterritt and McKenna Jean Houlihan.

On request of Assemblyman C.H. Miller, the privilege of the floor of the Assembly Chamber for this day was extended to Stephanie Parker.

On request of Assemblywoman Brittney Miller, the privilege of the floor of the Assembly Chamber for this day was extended to Chris Fuqua, Francisco Ortega, and Ronald Williams.

On request of Assemblywoman Monroe-Moreno, the privilege of the floor of the Assembly Chamber for this day was extended to Alma Lozoya, Larry Wilson, and Melanie Arizmendi.

On request of Assemblyman Nguyen, the privilege of the floor of the Assembly Chamber for this day was extended to Maria Teresa Hank and Bryan Orozco.

On request of Assemblyman Orentlicher, the privilege of the floor of the Assembly Chamber for this day was extended to Forrest Darby.

On request of Assemblywoman Torres, the privilege of the floor of the Assembly Chamber for this day was extended to Dr. Patrick Carter, Axel Perez Rios, and Francisco Ramirez-Jimenez.

On request of Assemblyman Watts, the privilege of the floor of the Assembly Chamber for this day was extended to Pesach Chananiah, PhD.

On request of Assemblyman Yurek, the privilege of the floor of the Assembly Chamber for this day was extended to Jacqueline Nguyen.

Assemblywoman Jauregui moved that the Assembly adjourn until Thursday, April 20, 2023, at 11:30 a.m., and that it do so in memory of former Assemblyman Paul Aizley.

Motion carried.

Assembly adjourned at 1:17 p.m.

Approved:

STEVE YEAGER
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly