THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 25, 2007

Senate called to order at 11:54 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Kochsmeier.

Eternal God,

Gratefully we come to You this morning acknowledging Your faithfulness. You awakened us again, today, with Your call to life; to service; to be used to bring care and compassion to Your people. Thank You for this opportunity.

Lord, there is so much for these, Your servants, to do today, more than for which they have time. Grant them peace and discernment as they navigate through bills and legislation today. Give them endurance and patience and the reminder of Your Holy Spirit that Your peace is available for the asking. Keep them mindful of Your presence in every moment.

As we prepare for a weekend in which we remember the sacrifice of those who have given the last full measure of devotion to secure our freedom, give us the same spirit of selflessness as those who put themselves in harm's way for this State and Nation.

Lord, the State of Nevada and its Capital, Carson City, said goodbye to a hero this week in the person of Fire Chief Les Groth. We pray Your comforting touch upon his family and thank You for the many ways You made this a better place through his service.

We ask now that You would continue this kind of service through all that we seek to accomplish here, today. May it be Your will we seek and to Your glory that we work. Gratefully, we pray.

AMEN.

Pledge of Allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 250, 572; Assembly Bill No. 608, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 513, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Your Committee on Government Affairs, to which was rereferred Assembly Bill No. 462, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

Mr. President:

Your Committee on Human Resources and Education, to which was referred Assembly Bill No. 354, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 25, 508, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 24, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 312, 315, 367.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 19, Amendment No. 955; Senate Bill No. 43, Amendment No. 840; Senate Bill No. 92, Amendment No. 789; Senate Bill No. 95, Amendment No. 954; Senate Bill No. 128, Amendment No. 841; Senate Bill No. 140, Amendment No. 781; Senate Bill No. 266, Amendment No. 862; Senate Bill No. 303, Amendment No. 836; Senate Bill No. 329, Amendment No. 810; Senate Bill No. 352, Amendments Nos. 676; 750; Senate Bill No. 356, Amendment No. 861, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 736 to Assembly Bill No. 56; Senate Amendment No. 704 to Assembly Bill No. 68; Senate Amendment No. 751 to Assembly Bill No. 215; Senate Amendment No. 630 to Assembly Joint Resolution No. 3.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 115, Assembly Amendment No. 696, and requests a conference, and appointed Assemblymen Parnell, Denis and Beers as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 154, Assembly Amendment No. 719, and requests a conference, and appointed Assemblymen Denis, Anderson and Marvel as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Oceguera, Anderson and Carpenter as a first Conference Committee concerning Assembly Bill No. 14.

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LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cegavske moved that Assembly Bill No. 604 be taken from the Second Reading File and placed on the Second Reading File on the third agenda.

Remarks by Senator Cegavske.

Motion carried.

Senator Nolan moved that Assembly Bill No. 364 be taken from the Secretary's desk and placed on the Second Reading File on the third agenda.

Remarks by Senator Nolan.

Motion carried.

Senator Nolan moved that Assembly Bill No. 64 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Senator Nolan.

Motion carried.

Senator Hardy moved that Assembly Bill No. 326 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Senator Hardy.

Motion carried.

Senator Heck moved that Assembly Bill No. 396 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Senator Heck.

Motion carried.

Senator Amodei moved that Assembly Bill No. 428 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Senator Amodei.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 52.

Bill read third time.

Roll call on Assembly Bill No. 52:

YEAS—21.

NAYS—None.

Assembly Bill No. 52 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 63.

Bill read third time.

Senator Amodei moved to withdraw Amendment No. 942 to Assembly Bill No. 63.

Motion carried.

Senator Amodei moved that Assembly Bill No. 63 be taken from the General File and moved to the General File on the third agenda.

Remarks by Senator Amodei.

Motion carried.

Assembly Bill No. 87.

Bill read third time.

Roll call on Assembly Bill No. 87:

YEAS—21.

NAYS—None.

Assembly Bill No. 87 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 115.

Bill read third time.

Remarks by Senator Amodei.

Senator Amodei moved that Assembly Bill No. 115 be taken from the General File and placed on General File for Monday, May 28, 2007.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator McGinness moved that Assembly Bill No. 209 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator McGinness.

Motion carried.

Senator Hardy moved that Assembly Bill No. 514 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator Amodei.

Motion carried.

Senator Washington moved that Assembly Bill No. 577 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator Washington.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 139.

Bill read third time.

Roll call on Assembly Bill No. 139:

YEAS—21.

NAYS—None.

Assembly Bill No. 139 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 148.

Bill read third time.

Remarks by Senators Care and Washington

Senator Care moved that Assembly Bill No. 148 be taken from General File and placed on the General File on the third agenda.

Motion carried.

Assembly Bill No. 193.

Bill read third time.

Roll call on Assembly Bill No. 193:

YEAS—21.

NAYS—None.

Assembly Bill No. 193 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator McGinness moved that Assembly Bill No. 209 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator McGinness.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 226.

Bill read third time.

Roll call on Assembly Bill No. 226:

YEAS—21.

NAYS—None.

Assembly Bill No. 226 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 244.

Bill read third time.

The following amendment was proposed by Senator Washington:

Amendment No. 952.

"SUMMARY—Revises provisions governing the review of school districts based upon financial management principles. (BDR 34-283)"

"AN ACT relating to education; revising provisions governing the review of school districts based upon certain financial management principles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that to the extent money is made available by the Legislature, each school district in this State must undergo a review every 6 years to determine whether the school district is successfully carrying out certain financial management principles. (NRS 387.602-387.644) A school district may, under certain circumstances, be exempt from the 6-year review and undergo the review every 12 years. (NRS 387.631, 387.639) Upon completion of the review of a school district, the consultant who conducted the review must submit a preliminary report of the review to the superintendent of schools of the school district for the superintendent to prepare a written response. The preliminary report and the final report must be made available to the general public. (NRS 387.631) This bill revises provisions governing the preliminary report of the review and requires the consultant to submit the preliminary report to the superintendent of the school district or the superintendent's designee for preparation of a written response of the school district. This bill also ~~[makes the preliminary report~~

~~confidential.]~~ *requires the consultant to submit a summary of the preliminary report to the Legislative Committee on Education for its review.*

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

Section 1. NRS 387.631 is hereby amended to read as follows:

387.631 1. The consultant shall complete the review of a school district within 6 months after the date on which the review is commenced. The consultant shall prepare a final written report of the review that:

(a) Is documented by sufficient, competent and relevant evidence to provide a reasonable basis for the findings and conclusions of the consultant.

(b) If the consultant determines that the school district is not successfully carrying out the management principles in one or more of the areas set forth in subsection 2 of NRS 387.622, includes a plan for corrective action for the school district to carry out successfully the management principles in each area within 2 years. The plan must:

(1) Be logically connected to and substantiated by the results of the review;

(2) Be specific and detailed; and

(3) Identify methods for the school district to reduce its costs and expenses.

(c) Includes the written response of the school district prepared pursuant to subsection 2.

2. The consultant shall furnish a copy of the preliminary report of the review to the superintendent of schools of the school district *or the superintendent's designee* and discuss the report with the ~~[superintendent.]~~ *superintendent or the superintendent's designee. The consultant shall submit a summary of the preliminary report to the Legislative Committee on Education for its review.* Within 30 days after receipt of the preliminary report, the superintendent ~~[shall, in consultation with the board of trustees of the school district,]~~ *or the superintendent's designee shall* prepare a written response to the preliminary report that includes a statement of explanation or rebuttal of any findings contained in the preliminary report. The consultant shall include the written response of the school district in his final written report submitted pursuant to subsection 1.

3. The final written report of the consultant must be submitted to the board of trustees of the school district, the State Board, the Legislative Auditor and the Director of the Legislative Counsel Bureau for transmission to the Legislature within 60 days after the review is complete.

4. If the consultant determines that a school district is successfully carrying out the management principles for each of the areas set forth in subsection 2 of NRS 387.622, the school district is exempt from its next 6-year review unless the Legislature subsequently determines that the conditions or circumstances occurring within the school district warrant another review pursuant to NRS 387.602 to 387.644, inclusive. If a school district is exempt pursuant to this subsection, the exemption is valid for only

one review and the school district must undergo a review at least once every 12 years.

5. The ~~[preliminary report]~~ ~~[and the]~~ ~~*[is confidential. The]*~~ final report must be made available to the general public.

Sec. 2. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 285.

Bill read third time.

Roll call on Assembly Bill No. 285:

YEAS—21.

NAYS—None.

Assembly Bill No. 285 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 296.

Bill read third time.

Senator Amodei moved that Assembly Bill No. 296 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator McGinness.

Motion carried.

Assembly Bill No. 373.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 969.

"SUMMARY—Revises provisions governing general improvement districts. (BDR 25-388)"

"AN ACT relating to general improvement districts; revising the provisions governing the circumstances under which a board of county commissioners may serve ex officio as the board of trustees of a general improvement district; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners ~~[in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties)]~~ to serve ex officio as the board of trustees of a general improvement district which is organized on or after July 1, 2007, and *is* authorized to ~~[furnish streets and alleys.]~~ *exercise any of the basic powers that a district may exercise under existing law.* This bill also provides that *, in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) and which is only authorized to furnish streets and alleys,* the territory of such a district may overlap the territory of

another general improvement district. ~~[This bill also authorizes the board of county commissioners in any county to serve ex officio as the board of trustees of a general improvement district which is organized on or after July 1, 2007, and is authorized to exercise any of the basic powers that a district may exercise under existing law.]~~ (NRS 318.0953)

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

Section 1. NRS 318.0953 is hereby amended to read as follows:

318.0953 1. In every county whose population is 400,000 or more, the board of county commissioners is, and in counties whose population is less than 400,000 the board of county commissioners may be ~~[,]~~ ex officio ~~[,]~~ the board of trustees of each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for sewerage as provided in NRS 318.140, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which is authorized, in addition to those basic powers, to exercise any one or more other basic powers designated in this chapter, except as *otherwise* provided in subsections 2 ~~[and 4.]~~ *, 4 and 5.*

2. The board of county commissioners of any county may be, at its option, ex officio ~~[,]~~ the board of trustees of any district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for water as provided in NRS 318.144, or ~~[,]~~ furnishing both facilities for water and facilities for sewerage as provided in NRS 318.144 and 318.140, respectively, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which:

(a) Is authorized, in addition to its basic powers, to exercise any one or more other basic powers designated in this chapter ~~[.]~~ *, except as otherwise provided in subsection 4.*

(b) Is organized or reorganized pursuant to this chapter, the boundaries of which include all or a portion of any incorporated city or all or a portion of a district for water created by special law.

3. In every county whose population is less than 100,000, the board of county commissioners may be ~~[,]~~ ex officio ~~[,]~~ the board of trustees of each ~~[:~~ ~~*(a) Each]*~~ district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing emergency medical services as provided in NRS 318.1185, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.

~~*[(b) Each district organized pursuant to this chapter on or after July 1, 2007, and authorized to exercise the basic power of furnishing streets and alleys as provided in NRS 318.120, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.]*~~

4. *The board of county commissioners of any county may be, at its option, ex officio the board of trustees of any district organized on or after July 1, 2007, and authorized to exercise one or more of the basic powers designated in this chapter. In a county whose population is less than 100,000, a district for which the board of county commissioners is ex officio the board of trustees pursuant to this subsection and which is authorized only to exercise the basic power of furnishing streets and alleys as provided in NRS 318.120 may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.*

5. A board of county commissioners may exercise the options provided in subsections 1 ~~[, 2 and 3]~~ *to 4, inclusive,* by providing in the ordinance creating the district or in an ordinance thereafter adopted at any time that the board is ~~[,]~~ ex officio ~~[,]~~ the board of trustees of the district. The board of county commissioners shall, in the former case, be the board of trustees of the district when the ordinance creating the district becomes effective, or in the latter case, become the board of the district 30 days after the effective date of the ordinance adopted after the creation of the district. In the latter case within the 30-day period the county clerk shall promptly cause a copy of the ordinance to be:

(a) Filed in his office;

(b) Transmitted to the secretary of the district; and

(c) Filed in the Office of the Secretary of State without the payment of any fee and otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 2. This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 386.

Bill read third time.

Roll call on Assembly Bill No. 386:

YEAS—21.

NAYS—None.

Assembly Bill No. 386 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 439.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 1004.

"SUMMARY—Makes various changes relating to developing and maintaining affordable housing. (BDR 22-1302)"

"AN ACT relating to affordable housing; requiring certain cities and counties to adopt certain measures to implement a housing plan that is included in a master plan ~~[; providing a procedure for reporting]~~ *and to report their* progress in maintaining and developing affordable housing *;* ~~[,~~ ~~reviewing such reports and imposing penalties for lack of adequate progress;]~~ amending the definition of "affordable housing"; making various changes to the requirements for a master plan relating to affordable housing; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the adoption of a master plan in a county whose population is 400,000 or more (currently Clark County) and requires that the master plan include a housing plan. If a master plan is adopted in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the master plan is required to include a housing plan. Under existing law, such a housing plan is required to include a plan for maintaining and developing affordable housing to meet the housing needs of the community. (NRS 278.150, 278.160)

Section 1.3 of this bill requires the governing body of a city or county that is required to include a housing plan in its master plan, in implementing a plan for maintaining and developing affordable housing to meet the housing needs of the community, to adopt at least 6 of 12 specified measures relating to the maintenance and development of affordable housing in the jurisdiction. ~~[Sections]~~ *Section* 1.3 ~~[and 1.7]~~ also ~~[: (1) require]~~ *requires* such cities and counties to report annually to the Housing Division of the Department of Business

and Industry concerning how such measures assisted the city or county in maintaining and developing affordable housing *.* ~~[; (2) require the Interim Finance Committee to review those reports and, at the Committee's discretion, determine whether a city or county made adequate progress in maintaining and developing affordable housing during the reporting period; and (3) authorize the Interim Finance Committee to recommend that the Housing Division impose a penalty against a city or county that does not make such adequate progress. Section 5 of this bill sets forth the formula for determining the amount of any such penalty. Pursuant to section 7 of this bill, the penalty provisions do not become effective until October 1, 2008, and therefore do not apply to the initial annual reports submitted to the Housing Division.]~~ *The Housing Division is required to submit a compilation of the reports to the Legislature, or to the Legislative Commission if the Legislature is not in session.*

For purposes of the provisions governing land use planning that address affordable housing, existing law defines "affordable housing" to mean housing that is affordable for a family with a total gross income less than 110 percent of the median gross income for the county concerned, based upon estimates by the United States Department of Housing and Urban Development of the most current median gross family income for the county.

(NRS 278.0105) Section 2 of this bill decreases the total gross income of a family that is used for determining whether housing is affordable in the definition of "affordable housing" from a total gross income that is less than 110 percent of the median gross income for the relevant county to a total gross income that does not exceed 80 percent of that median gross income, which thereby limits the scope of the provisions governing land use planning that address affordable housing.

Existing law sets forth the subject matters of a master plan. (NRS 278.160) Section 3 of this bill revises the contents of the housing plan portion of a master plan.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. *1. If the governing body of a city or county is required to include a housing plan in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing plan pursuant to subparagraph (8) of paragraph (e) of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:*

(a) At the expense of the city or county, as applicable, subsidizing in whole or in part impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land, and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(g) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing tax credits, private activity bonds or money from a governmental entity for

affordable housing, including, without limitation, money received pursuant to 12 U.S.C § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

3. On or before February 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 2 and transmit the compilation to the ~~[Interim Finance Committee.]~~ Legislature, or the Legislative Commission if the Legislature is not in regular session.

Sec. 1.7. ~~*[1. The Interim Finance Committee shall review the compilation of reports submitted by the Housing Division of the Department of Business and Industry pursuant to section 1.3 of this act and may determine, based on the pertinent report in the compilation, whether a city or county made adequate progress during the reporting period in maintaining and developing affordable housing to meet the housing needs of the community.*~~

~~*2. If the Interim Finance Committee determines pursuant to subsection 1 that a city or county has not made adequate progress in maintaining and developing affordable housing to meet the housing needs of the community, the Interim Finance Committee may recommend that the Housing Division impose a penalty against the city or county in an amount determined pursuant to section 5 of this act. If the Interim Finance Committee makes such a recommendation, the Housing Division shall notify the governing body of the city or county and the Executive Director of the Department of Taxation that the Housing Division will be imposing a penalty against the city or county.*~~

~~*3. The governing body of a city or county against whom a penalty is imposed pursuant to subsection 2 may apply to the Housing Division for an amount from the Account for Low Income Housing created pursuant to NRS 319.500 that does not exceed the amount of the penalty determined by the Executive Director of the Department of Taxation pursuant to section 5 of this act. Any money that the governing body receives pursuant to this subsection must be used exclusively for the purpose of maintaining and developing affordable housing in the community and must be reverted to the Account if it is not used for this purpose within 4 years after receipt.]*~~ *(Deleted by amendment.)*

Sec. 2. NRS 278.0105 is hereby amended to read as follows:

278.0105 "Affordable housing" means housing affordable for a family with a total gross income ~~[less than 110]~~ *that does not exceed 80* percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.

Sec. 3. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(e) Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing ~~[.]~~ *to individuals and families in the community, regardless of income level.*

(2) An inventory of *existing* affordable housing in the community ~~[.]~~ *, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.*

(3) An analysis of *projected growth and* the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is ~~[the most appropriate for the construction of affordable housing.]~~ *suitable for residential development. The analysis must include, without limitation:*

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community ~~[.]~~ *for a period of at least 5 years.*

(f) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable, mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(g) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(h) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(i) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor,

including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

(j) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(k) Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

(l) Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

(m) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

(n) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(o) Solid waste disposal plan. Showing general plans for the disposal of solid waste.

(p) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(q) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(r) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, *and section 1.3 of this act* prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 3.5. ~~[NRS 218.6827 is hereby amended to read as follows:~~

~~218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.~~

~~2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.]~~ *(Deleted by amendment.)*

Sec. 4. ~~[NRS 319.510 is hereby amended to read as follows:~~

~~319.510 1. Money deposited in the Account for Low-Income Housing must be used:~~

~~(a) For the acquisition, construction or rehabilitation of housing for eligible families by public or private nonprofit charitable organizations, housing authorities or local governments through loans, grants or subsidies;~~

~~(b) To provide technical and financial assistance to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction or rehabilitation of housing for eligible families;~~

~~(c) To provide funding for projects of public or private nonprofit charitable organizations, housing authorities or local governments that provide assistance to or guarantee the payment of rent or deposits as security for rent for eligible families, including homeless persons;~~

~~(d) To reimburse the Division for the costs of administering the Account; and~~

~~(e) In any other manner consistent with this section to assist eligible families in obtaining or keeping housing, including use as the State's contribution to facilitate the receipt of related federal money.~~

~~2. Except as otherwise provided in this subsection, the Division may expend money from the Account as reimbursement for the necessary costs of efficiently administering the Account and any money received pursuant to 42 U.S.C. §§ 12701 et seq. In no case may the Division expend more than $40,000 per year or an amount equal to 6 percent of any money made available to the State pursuant to 42 U.S.C. §§ 12701 et seq., whichever is greater. Of the remaining money allocated from the Account:~~

~~(a) Except as otherwise provided in subsection 3, 15 percent must be distributed to the Division of Welfare and Supportive Services of the Department of Health and Human Services for use in its program developed pursuant to 45 C.F.R. § 233.120 to provide emergency assistance to needy families with children, subject to the following:~~

~~(1) The Division of Welfare and Supportive Services shall adopt regulations governing the use of the money that are consistent with the provisions of this section.~~

~~(2) The money must be used solely for activities relating to low-income housing that are consistent with the provisions of this section.~~

~~(3) The money must be made available to families that have children and whose income is at or below the federally designated level signifying poverty.~~

~~(4) All money provided by the Federal Government to match the money distributed to the Division of Welfare and Supportive Services pursuant to this section must be expended for activities consistent with the provisions of this section.~~

~~(b) Eighty-five percent must be distributed to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction and rehabilitation of housing for eligible families, subject to the following:~~

~~(1) Priority must be given to those projects that qualify for the federal tax credit relating to low-income housing.~~

~~(2) Priority must be given to those projects that anticipate receiving federal money to match the state money distributed to them.~~

~~(3) Priority must be given to those projects that have the commitment of a local government to provide assistance to them.~~

~~(4)~~ [All] ~~*Priority must be given to a local government that applies for and receives money pursuant to section 1.7 of this act.*~~

~~*(5) Except as otherwise provided in this subparagraph, all* money must be used to benefit families whose income does not exceed 60 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.~~

~~[(5)]~~ ~~*If a local government applies for and receives money pursuant to section 1.7 of this act, the money must be used to benefit families whose income does not exceed 80 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.*~~

~~*(6)* Not less than 15 percent of the units acquired, constructed or rehabilitated must be affordable to persons whose income is at or below the federally designated level signifying poverty. For the purposes of this subparagraph, a unit is affordable if a family does not have to pay more than 30 percent of its gross income for housing costs, including both utility and mortgage or rental costs.~~

~~[(6)]~~ ~~*(7)* To be eligible to receive money pursuant to this paragraph, a project must be sponsored by a local government.~~

~~3. The Division may, pursuant to contract and in lieu of distributing money to the Division of Welfare and Supportive Services pursuant to paragraph (a) of subsection 2, distribute any amount of that money to private or public nonprofit entities for use consistent with the provisions of this section.~~] *(Deleted by amendment.)*

Sec. 5. ~~[Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. If, upon the recommendation of the Interim Finance Committee pursuant to section 1.7 of this act, the Housing Division of the Department of Business and Industry imposes a penalty against a city or county, the Executive Director shall:*~~

~~*(a) Determine the amount of the penalty by determining the total amount of the real property transfer tax described in paragraph (a) of subsection 1 of NRS 375.070 which is attributable to the city or county for the preceding fiscal year; and*~~

~~*(b) Report the amount determined pursuant to paragraph (a) to the State Treasurer and the city or county.*~~

~~*2. For the fiscal year beginning on July 1 of the year in which the penalty is imposed, the State Treasurer shall:*~~

~~*(a) Subtract one-twelfth of the amount of the penalty that is determined by the Executive Director pursuant to subsection 1 from the amount remitted monthly to the city or county pursuant to NRS 360.690; or*~~

~~*(b) If the city or county has entered into a cooperative agreement pursuant to NRS 360.730, collect, on a monthly basis, one-twelfth of the amount of the penalty that is determined by the Executive Director pursuant to subsection 1 from the city or county,*~~

~~*and deposit that amount into the Account for Low-Income Housing established pursuant to NRS 319.500.]*~~ *(Deleted by amendment.)*

Sec. 6. ~~[NRS 704.848 is hereby amended to read as follows:~~

~~704.848 1. "Other permitting entity" means any state or local entity:~~

~~(a) That is responsible for the enforcement of environmental laws and whose approval is required for the construction of a utility facility, including, without limitation, the State Environmental Commission, the State Department of Conservation and Natural Resources and a local air pollution control board; or~~

~~(b) Whose approval is required for granting any variance, special use permit, conditional use permit or other special exception under NRS 278.010 to 278.319, inclusive, *and section 1.3 of this act,* or 278.640 to 278.675, inclusive, or any regulation or ordinance adopted pursuant thereto, that is required for the construction of a utility facility.~~

~~2. The term does not include the Commission or the State Engineer.]~~ *(Deleted by amendment.)*

Sec. 7. ~~[1. This section and sections 1, 1.3, 2, 3 and 6 of this act become effective on October 1, 2007.~~

~~2. Sections 1.7, 3.5, 4 and 5 of this act become effective on October 1, 2008.]~~ *(Deleted by amendment.)*

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 460.

Bill read third time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 995.

"SUMMARY—Revises provisions regarding public schools and educational personnel. (BDR 34-1279)"

"AN ACT relating to education; requiring each school district to develop a program to provide enhanced compensation to employees of the school district; making various changes regarding the evaluation and admonition of educational personnel; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Department of Education to establish and maintain an automated system of accountability information for Nevada concerning the achievement and proficiency of pupils. Certain information that is collected as part of that system must not be used for the purpose of evaluating an individual teacher or paraprofessional. (NRS 386.650) Section 5.5 of this bill revises existing law to provide that such information may be used for the purpose of evaluating a teacher or paraprofessional as long as it is not used as the sole criterion for evaluation.

Section 6 of this bill requires an administrator who is responsible for evaluating a teacher to personally observe that teacher in the classroom for not less than 60 minutes during each evaluation period. If a deficiency is discovered during the evaluation process, a reasonable effort must be made to assist the teacher to correct the deficiency. Existing law prescribes the circumstances under which an administrator may admonish an employee. (NRS 391.313) Section 7 of this bill requires an admonition to include a description of the deficiencies of the teacher and the actions that are necessary to correct those deficiencies.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.5. *NRS 386.650 is hereby amended to read as follows:*

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each subgroup of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➥ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction ~~[but must not]~~ *and may* be used for the purpose of evaluating an individual teacher or paraprofessional~~.~~ ~~[.]~~ *as long as the information is not the sole criterion by which the individual teacher or paraprofessional is evaluated.*

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(g) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(h) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 6. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded ~~[no]~~ *not* later than:

(a) December 1;

(b) February 1; and

(c) April 1,

➥ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. *An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.*

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, he shall bring the matter to the employee's attention in a written document which is separate from the evaluation ~~[no]~~ *not* later than ~~[February 15]~~ *March 1* of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. *An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.*

6. The evaluation of a probationary teacher or a postprobationary teacher must ~~[, if]~~ *include, without limitation:*

(a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) If necessary, ~~[include]~~ recommendations for improvements in ~~[his]~~ *the* performance ~~[. A reasonable effort must be made to assist the teacher to correct any deficiencies noted in the evaluation.]~~ *of the teacher;*

(f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

(g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. *Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.*

Sec. 7. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that he believes may lead to demotion ~~[,]~~ *or* dismissal or cause the employee not to be reemployed under the provisions of NRS 391.312, he shall:

(a) Except as otherwise provided in subsection ~~[2,]~~ *3,* bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to his demotion, dismissal or a refusal to reemploy him, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for his potential demotion, dismissal or a potential recommendation not to reemploy him; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➥ *The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.*

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for him by the

administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

~~[2.]~~ *3.* An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his employment will be terminated pursuant to NRS 391.3197. If by ~~[February 15]~~ *March 1* of the first or second year of his probationary period a probationary employee does not receive a written notice pursuant to subsection 4 of NRS 391.3125 of a potential decision not to reemploy him, he must receive an admonition before any such decision is made.

~~[3.]~~ *4.* A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h) and (p) of subsection 1 of NRS 391.312.

Sec. 8. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for two 1-year periods and has no right to employment after either of the two probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first and second school years of his probationary period, as appropriate, whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing on or before May 10 of the first or second year of his probationary period, as appropriate, of his acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify him in writing, in both the first and second years of his probationary period, no later than 45 days before his last day of work for the year under his contract whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. He must advise the board in writing within 10 days after the date of notification of his acceptance or rejection of reemployment for another year. Failure to advise the board of his acceptance of reemployment constitutes rejection of the contract.

3. A probationary employee who completes his 2-year probationary period and receives a notice of reemployment from the school district in the second year of his probationary period is entitled to be a postprobationary employee in the ensuing year of employment.

4. ~~[A]~~ *If a* probationary employee ~~[who receives an unsatisfactory evaluation]~~ *receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him, the employee* may request a supplemental evaluation by another administrator in the school district selected by him and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator

from another school district in ~~[the]~~ *this* State. If a probationary employee has received during the first school year of his probationary period three evaluations which state that the employee's overall performance has been satisfactory, the superintendent of schools of the school district or his designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of his probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that he will not be reemployed for the second year of his probationary period or the ensuing school year, his employment ends on the last day of the current school year. The notice that he will not be reemployed must include a statement of the reasons for that decision.

6. A new employee or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 2-year probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an unsatisfactory evaluation during the first year of probation, the superintendent or his designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after either year of his probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

➥ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

7. An administrator who has completed his probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the additional probationary period, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

8. Before dismissal, the probationary employee is entitled to a hearing before a hearing officer which affords due process as set out in NRS 391.311 to 391.3196, inclusive.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senators Washington, Carlton and Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 483.

Bill read third time.

The following amendment was proposed by Senator Amodei:

Amendment No. 1000.

"SUMMARY— ~~[Revises provisions concerning the enforcement of judgments.]~~ *Makes various changes to provisions pertaining to civil actions.* (BDR 2-1408)"

"AN ACT relating to ~~[property;]~~ *civil actions; increasing the amount of the homestead exemption;* providing that certain property of a judgment debtor is exempt from execution; *increasing the amount of damages that may be awarded in certain tort actions brought against a governmental entity or its officers or employees;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, with certain exceptions, in a civil action in which damages were awarded, the prevailing party in the action may obtain a writ of execution to enforce the judgment at any time before the judgment expires. (NRS 21.010) Existing law exempts certain property from such a writ of execution up to a specified monetary value. (NRS 21.090) In addition, existing law protects from a forced sale up to $350,000 in equity of certain property which is designated as a homestead by a person, except in certain circumstances. (NRS 115.005, 115.010)

Sections 2, 4 and 5 of this bill increase the amount of equity protected in homestead property from $350,000 to $450,000. Section 2 ~~[of this bill]~~ *also* expands the list of the property of a judgment debtor that is exempt from execution to include: (1) certain personal property not to exceed $1,000 in total value; and (2) any tax refund the judgment debtor receives because of the federal earned income credit or any similar credit under a state law. (NRS 21.090) Sections 1 and 3 of this bill add those new exemptions to the list of exemptions provided in certain notices of execution. (NRS ~~[21.076,]~~ *21.075,* 31.045) *Sections 1 and 3 also revise the contents of a notice of writ of execution and a notice of writ of attachment to reflect the changes in the homestead exemption included in this bill.*

Section 3.5 of this bill increases the limitation on the amount of damages that may be awarded in a tort action brought against a governmental entity or its officers or employees from $50,000 to $100,000. (NRS 41.035)

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

Section 1. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[$350,000,]~~ *$450,000,* unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. A vehicle, if your equity in the vehicle is less than $15,000.

11. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

12. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

13. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

15. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

16. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

17. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a

person upon whom the judgment debtor is dependent at the time the payment is received.

18. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

19. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as restitution for a criminal act.

21. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

22. A tax refund received from the earned income credit provided by federal law or a similar state law.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 2. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (o), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (n), (r) and (s), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed $15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the $15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed ~~[$350,000]~~ *$450,000* in value and the dwelling is situated upon lands not owned by him.

(n) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(o) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(p) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(q) Money, not to exceed $500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(r) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(t) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(u) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(v) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as restitution for a criminal act.

(x) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(y) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(z) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a

judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 3. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➥ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[$350,000,]~~ *$450,000,* unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. A vehicle, if your equity in the vehicle is less than $15,000.

11. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

12. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

13. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

15. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

16. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

17. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

18. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

19. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as restitution for a criminal act.

21. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

22. A tax refund received from the earned income credit provided by federal law or a similar state law.

➥ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 3.5. *NRS 41.035 is hereby amended to read as follows:*

41.035 1. An award for damages in an action sounding in tort brought under NRS 41.031 or against a present or former officer or employee of the State or any political subdivision, immune contractor or State Legislator arising out of an act or omission within the scope of his public duties or employment may not exceed the sum of ~~[$50,000,]~~ *$100,000,* exclusive of interest computed from the date of judgment, to or for the benefit of any claimant. An award may not include any amount as exemplary or punitive damages.

2. The limitations of subsection 1 upon the amount and nature of damages which may be awarded apply also to any action sounding in tort and arising from any recreational activity or recreational use of land or water which is brought against:

(a) Any public or quasi-municipal corporation organized under the laws of this State.

(b) Any person with respect to any land or water leased or otherwise made available by that person to any public agency.

(c) Any Indian tribe, band or community whether or not a fee is charged for such activity or use. The provisions of this paragraph do not impair or modify any immunity from liability or action existing on February 26, 1968, or arising after February 26, 1968, in favor of any Indian tribe, band or community.

➥ The Legislature declares that the purpose of this subsection is to effectuate the public policy of the State of Nevada by encouraging the recreational use of land, lakes, reservoirs and other water owned or controlled by any public or quasi-municipal agency or corporation of this State, wherever such land or water may be situated.

Sec. 4. *NRS 115.010 is hereby amended to read as follows:*

115.010 1. The homestead is not subject to forced sale on execution or any final process from any court, except as otherwise provided by subsections 2, 3 and 5, and NRS 115.090 and except as otherwise required by federal law.

2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed ~~[$350,000]~~ *$450,000* in value, unless allodial title has been established and not relinquished, in which case the exemption provided in subsection 1 extends to all equity in the dwelling, its appurtenances and the land on which it is located.

3. Except as otherwise provided in subsection 4, the exemption provided in subsection 1 does not extend to process to enforce the payment of obligations contracted for the purchase of the property, or for improvements made thereon, including any mechanic's lien lawfully obtained, or for legal taxes, or for:

(a) Any mortgage or deed of trust thereon executed and given, including, without limitation, any second or subsequent mortgage, mortgage obtained through refinancing, line of credit taken against the property and a home equity loan; or

(b) Any lien to which prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

➥ by both husband and wife, when that relation exists.

4. If allodial title has been established and not relinquished, the exemption provided in subsection 1 extends to process to enforce the payment of obligations contracted for the purchase of the property, and for improvements made thereon, including any mechanic's lien lawfully obtained, and for legal taxes levied by a state or local government, and for:

(a) Any mortgage or deed of trust thereon; and

(b) Any lien even if prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

➥ unless a waiver for the specific obligation to which the judgment relates has been executed by all allodial titleholders of the property.

5. Establishment of allodial title does not exempt the property from forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, or 207.350 to 207.520, inclusive.

6. Any declaration of homestead which has been filed before July 1, ~~[2005,]~~ *2007,* shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before July 1, ~~[2005.]~~ *2007.*

Sec. 5. *NRS 115.050 is hereby amended to read as follows:*

115.050 1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the

judgment makes an oath before the judge of the district court of the county in which the property is situated ~~[,]~~ that the amount of equity held by the claimant in the property exceeds, to the best of the creditor's information and belief, the sum of ~~[$350,000,]~~ *$450,000,* the judge shall, upon notice to the debtor, appoint three disinterested and competent persons as appraisers to estimate and report as to the amount of equity held by the claimant in the property ~~[,]~~ and , if the amount of equity exceeds the sum of ~~[$350,000,]~~ *$450,000,* determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury.

2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, he shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, he shall order the entire property to be sold, and out of the proceeds the sum of ~~[$350,000]~~ *$450,000* to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under ~~[$350,000]~~ *$450,000* may be received by the officer making the sale.

3. When the execution is against a husband or wife, the judge may direct the ~~[$350,000]~~ *$450,000* to be deposited in court, to be paid out only upon the joint receipt of the husband and wife, and the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead.

Sec. 5.5. The amendatory provisions of section 3.5 of this act apply to a cause of action that accrues on or after October 1, 2007.

~~[Sec. 4.]~~ *Sec. 6. 1.* This *section and sections 1, 2, 3, 4 and 5 of this* act ~~[becomes]~~ *become* effective on July 1, 2007.

2. Section 3.5 of this act becomes effective on October 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 521.

Bill read third time.

Senator Amodei moved to withdraw Amendment No. 1001 to Assembly Bill No. 521.

Motion carried.

Remarks by Senator Amodei.

Senator Amodei moved that Assembly Bill No. 521 be taken from the General File and place on the General File on the third agenda.

Motion carried.

Assembly Bill No. 558.

Bill read third time.

Roll call on Assembly Bill No. 558:
YEAS—21.
NAYS—None.

Assembly Bill No. 558 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 562.
Bill read third time.
Roll call on Assembly Bill No. 562:
YEAS—21.
NAYS—None.

Assembly Bill No. 562 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 567.
Bill read third time.
Roll call on Assembly Bill No. 567:
YEAS—21.
NAYS—None.

Assembly Bill No. 567 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 569.
Bill read third time.
Roll call on Assembly Bill No. 569:
YEAS—21.
NAYS—None.

Assembly Bill No. 569 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 570.
Bill read third time.
Roll call on Assembly Bill No. 570:
YEAS—21.
NAYS—None.

Assembly Bill No. 570 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 576.
Bill read third time.

Roll call on Assembly Bill No. 576:
YEAS—21.
NAYS—None.

Assembly Bill No. 576 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 580.
Bill read third time.
Roll call on Assembly Bill No. 580:
YEAS—21.
NAYS—None.

Assembly Bill No. 580 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 585.
Bill read third time.
Roll call on Assembly Bill No. 585:
YEAS—14.
NAYS—Care, Carlton, Horsford, Schneider, Titus, Wiener, Woodhouse—7.

Assembly Bill No. 585 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 592.
Bill read third time.
Roll call on Assembly Bill No. 592:
YEAS—21.
NAYS—None.

Assembly Bill No. 592 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 593.
Bill read third time.
Roll call on Assembly Bill No. 593:
YEAS—21.
NAYS—None.

Assembly Bill No. 593 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 596.
Bill read third time.

Roll call on Assembly Bill No. 596:
YEAS—21.
NAYS—None.

Assembly Bill No. 596 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 600.
Bill read third time.
Roll call on Assembly Bill No. 600:
YEAS—21.
NAYS—None.

Assembly Bill No. 600 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 612.
Bill read third time.
Roll call on Assembly Bill No. 612:
YEAS—21.
NAYS—None.

Assembly Bill No. 612 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 616.
Bill read third time.
Roll call on Assembly Bill No. 616:
YEAS—21.
NAYS—None.

Assembly Bill No. 616 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 7.
Resolution read third time.
Roll call on Assembly Joint Resolution No. 7:
YEAS—21.
NAYS—None.

Assembly Joint Resolution No. 7 having received a constitutional majority, Mr. President declared it passed.
Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 9.
Resolution read third time.

Roll call on Assembly Joint Resolution No. 9:
YEAS—21.
NAYS—None.

Assembly Joint Resolution No. 9 having received a constitutional majority, Mr. President declared it passed, as amended.
Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 10.
Resolution read third time.
Remarks by Senator Carlton.
Senator Carlton moved that Assembly Joint Resolution No. 10 be taken from the General File and place on the General File on the last agenda.
Motion carried.

Assembly Joint Resolution No. 16 of the 73rd Session.
Resolution read third time.
Roll call on Assembly Joint Resolution No. 16 of the 73rd Session:
YEAS—21.
NAYS—None.

Assembly Joint Resolution No. 16 of the 73rd Session having received a constitutional majority, Mr. President declared it passed.
Resolution ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 3.
The following Assembly amendment was read:
Amendment No. 918.
"SUMMARY—Revises various provisions relating to the death benefits payable to surviving spouses of certain police officers and firefighters. (BDR 53-244)"
"AN ACT relating to public employees; allowing the surviving spouse of ~~[a]~~ *certain* deceased police ~~[officer or firefighter who was killed in the line of duty]~~ *officers and firefighters* to continue to receive death benefits under industrial insurance after the surviving spouse remarries; and providing other matters properly relating thereto."
Legislative Counsel's Digest:
Under existing law, if the death of an employee is caused by an injury by accident arising out of and in the course of employment covered by state laws on industrial insurance, the surviving spouse of the deceased employee may receive a compensation known as a death benefit. (NRS 616C.505) The death benefit presently ends upon the surviving spouse's death or remarriage. (NRS 616C.505) This bill allows the surviving spouse of a deceased police officer or firefighter who ~~[was killed in the line of duty]~~ *died while actively employed as a police officer or firefighter* to continue to receive certain compensation under the death benefit even if the surviving spouse remarries.

This bill also allows the surviving spouse of certain retired police officers or firefighters to receive this benefit.

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

Section 1. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, if the surviving spouse of a deceased police officer or firefighter who ~~[was killed in the line of duty]~~ died while actively employed as a police officer or firefighter is entitled to be paid compensation pursuant to subsection 2 of NRS 616C.505 ~~[,]~~ or NRS 617.453, 617.455, 617.457, 617.485 or 617.487, the surviving spouse:

(a) Must be paid that compensation until the death of the surviving spouse, whether or not the surviving spouse remarries; and

(b) Must not be paid any compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 in one lump sum upon remarriage.

2. A surviving spouse of a deceased police officer or firefighter who was retired from employment as a police officer or firefighter at the time of death is entitled to receive compensation to the same extent and in the same manner as a surviving spouse specified in subsection 1 if:

(a) The police officer or firefighter retired because of the injury or occupational disease for which compensation is paid to the surviving spouse pursuant to this section; and

(b) The death of the police officer or firefighter was the direct and proximate result of the injury or occupational disease.

3. If the surviving spouse of a deceased police officer or firefighter specified in subsection 1 or 2 becomes the spouse of another employee or retiree who thereafter dies under circumstances that would otherwise entitle the surviving spouse to be paid compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 with respect to the other employee, the surviving spouse:

(a) Must not be paid compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 with respect to the other employee; and

(b) Shall be deemed to have predeceased the other employee for the purposes of chapters 616A to 616D, inclusive, and 617 of NRS.

~~[3. The]~~

4. Except as otherwise provided in subsections 1 and 2, the provisions of this section ~~[:~~

~~(a) Do not apply to the surviving spouse of a deceased police officer or firefighter if the death of that police officer or firefighter is made compensable only by chapter 617 of NRS; and~~

~~(b) Do]~~ do not affect any compensation payable under chapter 617 of NRS.

~~[4. As used in this section, "killed in the line of duty" means killed as a direct and proximate result of injuries sustained:~~

~~(a) If the person is on duty:~~

~~(1) While en route to or from, or otherwise responding to, an emergency, a call for service, a request for assistance or a situation requiring immediate law enforcement or emergency service attention; or~~

~~(2) From a hostile act;~~

~~(b) If the person is off duty, is a police officer and is using the tools of his trade, while en route to or from, or otherwise responding to, an emergency, a call for service, a request for assistance or a situation requiring immediate law enforcement attention; or~~

~~(c) During training that is approved by his employer and is scheduled or identified as training before the training occurs.]~~

Sec. 2. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit ~~[,]~~ and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed $5,000. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. ~~[To]~~ *Except as otherwise provided in section 1 of this act, to* the surviving spouse of the deceased employee, 66 2/3 percent of the average monthly wage is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage.

3. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 11, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

4. Upon the remarriage of a surviving spouse with children:

(a) The surviving spouse must be paid 2 years' compensation in one lump sum and further benefits must cease; and

(b) Each child must be paid 15 percent of the average monthly wage, up to a maximum family benefit of 66 2/3 percent of the average monthly wage.

➥ *The provisions of this subsection do not apply to the remarriage of a surviving spouse of a deceased police officer or firefighter if the provisions of section 1 of this act apply to the surviving spouse.*

5. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to

his proportionate share of 66 2/3 percent of the average monthly wage for his support.

6. Except as otherwise provided in subsection 7, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 33 1/3 percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 66 2/3 percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, his proportionate share of 66 2/3 percent of the average monthly wage.

7. The aggregate compensation payable pursuant to subsection 6 must not exceed 66 2/3 percent of the average monthly wage.

8. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury causing his death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

9. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

10. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to him, funeral expenses are payable in an amount not to exceed $5,000.

11. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of $3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of

18 years, whichever occurs first, unless paragraph (a) of subsection 12 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, "incompetent" has the meaning ascribed to it in NRS 159.019.

12. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his proportionate share of compensation pursuant to this section ceases when he dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if he is:

(a) Over 18 years of age and incapable of supporting himself, until such time as he becomes capable of supporting himself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until he reaches the age of 22 years.

13. As used in this section, "surviving spouse" means a surviving husband or wife who was married to the employee at the time of the employee's death.

Sec. 3. The amendatory provisions of sections 1 and 2 of this act do not apply to a surviving spouse of a deceased police officer or firefighter if the surviving spouse is remarried before October 1, 2007.

Senator Townsend moved that the Senate concur in the Assembly amendment to Senate Bill No. 3.

Remarks by Senator Townsend.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 10.

The following Assembly amendment was read:

Amendment No. 794.

"SUMMARY—Prohibits certain acts relating to capturing or distributing an image of the private area of another person under certain circumstances. (BDR 15-5)"

"AN ACT relating to crimes; prohibiting a person from knowingly and intentionally capturing an image of the private area of another person under certain circumstances; prohibiting a person from knowingly distributing, disclosing, displaying, transmitting or publishing an image captured under such circumstances; prohibiting the inspection or release of such images under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill, which is patterned after similar provisions of federal law, prohibits a person from knowingly and intentionally capturing an image of the private area of another person without the consent of the other person and under circumstances in which the other person has a reasonable expectation of privacy. This bill also prohibits a person from distributing, disclosing, displaying, transmitting or publishing an image that the person knows or has reason to know was made under such circumstances. A person who violates either provision *for a first offense is guilty of a gross misdemeanor and for a second or subsequent offense* is guilty of a category E felony *.* ~~[, which means that the court is required to sentence the person to 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 may fine the person up to $5,000. The court is then required to suspend the execution of the sentence and place the person on probation after sentencing, unless specific circumstances are established which provide the court with discretion to decide whether to grant probation. Probation is subject to any conditions imposed by the court and may include serving up to 1 year in the county jail. (NRS 193.130)]~~ This bill does not prohibit any lawful law enforcement or correctional activity for the purpose of investigating or prosecuting such violations, but this bill does prohibit the inspection or release of such images under certain circumstances to protect the privacy of the victim.

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

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

1. Except as otherwise provided in subsection 4, a person shall not knowingly and intentionally capture an image of the private area of another person:

(a) Without the consent of the other person; and

(b) Under circumstances in which the other person has a reasonable expectation of privacy.

2. Except as otherwise provided in subsection 4, a person shall not distribute, disclose, display, transmit or publish an image that the person knows or has reason to know was made in violation of subsection 1.

3. A person who violates this section ~~[is guilty of]~~ :

(a) For a first offense, is guilty of a gross misdemeanor.

(b) For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. This section does not prohibit any lawful law enforcement or correctional activity, including, without limitation, capturing, distributing, disclosing, displaying, transmitting or publishing an image for the purpose of investigating or prosecuting a violation of this section.

5. If a person is charged with a violation of this section, any image of the private area of a victim that is contained within:

(a) Court records;

(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History,

➥ is confidential and, except as otherwise provided in subsections 6 and 7, must not be inspected by or released to the general public.

6. An image that is confidential pursuant to subsection 5 may be inspected or released:

(a) As necessary for the purposes of investigation and prosecution of the violation;

(b) As necessary for the purpose of allowing a person charged with a violation of this section and his attorney to prepare a defense; and

(c) Upon authorization by a court of competent jurisdiction as provided in subsection 7.

7. A court of competent jurisdiction may authorize the inspection or release of an image that is confidential pursuant to subsection 5, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the inspection or release; and

(b) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

8. As used in this section:

(a) "Broadcast" means to transmit electronically an image with the intent that the image be viewed by any other person.

(b) "Capture," with respect to an image, means to videotape, photograph, film, record by any means or broadcast.

(c) "Female breast" means any portion of the female breast below the top of the areola.

(d) "Private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast of a person.

(e) "Under circumstances in which the other person has a reasonable expectation of privacy" means:

(1) Circumstances in which a reasonable person would believe that he could disrobe in privacy, without being concerned that an image of his private area would be captured; or

(2) Circumstances in which a reasonable person would believe that his private area would not be visible to the public, regardless of whether he is in a public or private place.

Senator Amodei moved that the Senate concur in the Assembly amendment to Senate Bill No. 10.

Remarks by Senator Amodei.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 16.

The following Assembly amendment was read:

Amendment No. 795.

"SUMMARY—Revises the provisions pertaining to eminent domain. (BDR 3-121)"

"AN ACT relating to eminent domain; revising the provisions pertaining to the deposit of money with a court in an action in eminent domain; ~~[revising the provisions pertaining to the date of valuation of property in an action in eminent domain;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that when money is deposited in any court and payment is not required for 90 days or more, the money may be commingled with other deposits and invested, and the interest earned is deposited with the general fund of the political subdivision or municipality which supports the court. (NRS 355.210) Section 1 of this bill provides that when money is deposited in an action in eminent domain, the money must be deposited in a separate account and the owner of the property is entitled to some or all of the interest earned, depending upon the amount of compensation awarded to the owner as compared to the amount of money deposited.

~~[Existing law provides that the date of valuation of property in an action in eminent domain is the date of the first service of summons. However, if the action is not tried within 2 years after that date and the delay is caused primarily by the plaintiff or congestion in the court calendar, the date of valuation is the date of the commencement of the trial. (NRS 37.120) Section 1.5 of this bill requires the property owner to select as the date of valuation of the property the date the complaint is filed, the date of the commencement of the trial or the date of the commencement of a retrial.]~~

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

Section 1. Chapter 37 of NRS is hereby amended by adding thereto a new section to read as follows:

The interest earned from any investment of money that has been deposited in any court pursuant to this chapter must be distributed in the following manner:

1. If the amount of the compensation awarded upon final judgment, not including any interest upon the judgment, is equal to or greater than the amount of money deposited in the court, the defendant is entitled to receive all the interest earned.

2. If the amount of the compensation awarded upon final judgment, not including any interest upon the judgment, is less than the amount of money deposited in the court:

(a) The defendant is entitled to receive a percentage of the interest earned that represents the amount of money deposited in the court as compared to the amount of the compensation awarded upon final judgment, not including any interest upon the judgment.

(b) The plaintiff is entitled to receive any interest remaining following the distribution to the defendant pursuant to paragraph (a).

Sec. 1.5. ~~[NRS 37.120 is hereby amended to read as follows:~~

~~37.120 [1.] To assess compensation and damages as provided in NRS 37.110, the~~ [date of the first service of the summons is] ~~*value of the property on* the date of valuation~~ [, except that, if the action is not tried within 2 years after the date of the first service of the summons, and the court makes a written finding that the delay is caused primarily by the plaintiff or is caused by congestion or backlog in the calendar of the court, the date of valuation is the date of the actual commencement of the trial. If a new trial is ordered by a court, the date of valuation used in the new trial must be the date of valuation used in the original trial.

2. No improvements put upon the property after the date of the service of the summons may be included in the assessment of compensation or damages, regardless of the date of valuation.

3. As used in this section, "primarily" means the greater amount, quantity or quality of acts of the plaintiff or the defendant or, if there is more than one defendant, the total delay caused by all the defendants, that would cause the date of the trial to be continued past 2 years after the date of the first service of the summons.] ~~*must be determined. The owner of the property shall select one of the following dates as the date of valuation:*~~

~~*1. The date the complaint is filed.*~~

~~*2. The date of the actual commencement of the trial.*~~

~~*3. If a new trial is ordered by a court, the date of the actual commencement of the new trial.]*~~ *(Deleted by amendment.)*

Sec. 2. NRS 355.210 is hereby amended to read as follows:

355.210 1. ~~[When]~~ *Except as otherwise provided in subsection 2, when* any money has been deposited in any court pursuant to law or rule of court, and when in the judgment of the clerk of the court, or the judge thereof if there is no clerk, payment out of the deposit will not be required for 90 days or more, the clerk or the judge, as the case may be, may invest the money so deposited, either alone or by commingling it with other money deposited.

2. *If money has been deposited in any court pursuant to chapter 37 of NRS, the money must be kept in a separate account and invested.*

3. The investment may be made:

(a) By deposit at interest in a state or national bank or credit union in the State of Nevada; or

(b) In bills, bonds, debentures, notes or other securities whose purchase by a board of county commissioners is authorized by NRS 355.170.

~~[3. The]~~

4. Except as otherwise provided in section 1 of this act, the interest earned from any investment of money pursuant to this section ~~[shall]~~ *must* be deposited to the credit of the general fund of the political subdivision or municipality which supports the court.

~~[4.]~~ *5.* The requirements of this section may be modified by an ordinance adopted pursuant to the provisions of NRS 244.207 ~~[.]~~ *, except the requirements of subsection 2.*

Sec. 3. The amendatory provisions of this act apply to an action in eminent domain that is filed on or after ~~[October 1, 2007.]~~ *the effective date of this act.*

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

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 16.

Remarks by Senator Care.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 53.

The following Assembly amendment was read:

Amendment No. 917.

"SUMMARY—Provides that advertising or conducting a live musical performance or production through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group constitutes a deceptive trade practice. (BDR 52-220)"

"AN ACT relating to deceptive trade practices; providing that advertising or conducting a live musical performance or production through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group constitutes a deceptive trade practice; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS) Section 1 of this bill provides that advertising or conducting a live musical performance or production through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group constitutes a deceptive trade practice. Sections 2-12 of this bill amend various sections of NRS to include necessary references to the new deceptive trade practice established in section 1.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a person engages in a "deceptive trade practice" if the person advertises or conducts a live musical performance or production in this State through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group.

2. A person does not engage in a "deceptive trade practice" pursuant to subsection 1 if:

(a) The performing group is the authorized registrant and owner of a federal service mark ~~[for]~~ comprising in whole or dominant part the mark or name of that group registered in the United States Patent and Trademark Office;

(b) At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;

(c) The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the performing group is not so closely related or similar to that used by the recording group that it would tend to confuse or mislead the public;

(d) The advertising does not relate to a live musical performance or production taking place in this State; or

(e) The performance or production is expressly authorized in writing by the recording group.

3. As used in this section:

(a) "Performing group" means a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name.

(b) "Person" means the performing group or its promoter, manager or agent. The term does not include the performance venue or its owners, managers or operators unless the performance venue ~~[owns]~~ has a controlling or majority ownership interest in and produces the performing group.

(c) "Recording group" means a vocal or instrumental group at least one of whose members has previously released a commercial sound recording under that group's name and in which the member or members have a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.

(d) "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken or other sounds regardless of the nature of the material object, such as a cassette tape, compact disc or phonograph album, in which the sounds are embodied.

Sec. 2. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* unless the context otherwise requires, the words and terms defined

in NRS 598.0905 to 598.0947, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 598.0953 is hereby amended to read as follows:

598.0953 1. Evidence that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

2. The deceptive trade practices listed in NRS 598.0915 to 598.0925, inclusive, *and section 1 of this act* are in addition to and do not limit the types of unfair trade practices actionable at common law or defined as such in other statutes of this State.

Sec. 4. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.*

Sec. 5. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.* The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any

documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 6. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.* Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* to particular persons or circumstances.

2. Service of any notice or subpoena must be made as provided in N.R.C.P. 45(c).

Sec. 7. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator

is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[,]~~ *, and section 1 of this act;* and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 8. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the Commissioner or Director pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* whenever the district attorney

of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he may bring an action in the name of the State of Nevada against that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 9. NRS 598.0993 is hereby amended to read as follows:

598.0993 The court in which an action is brought pursuant to NRS 598.0979 and 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 10. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.*

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a

deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 11. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the

wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 12. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive ~~[.]~~ *, and section 1 of this act.*

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; and

(b) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

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

Senator Heck moved that the Senate concur in the Assembly amendment to Senate Bill No. 53.

Remarks by Senator Heck.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 103.

The following Assembly amendment was read:

Amendment No. 935.

"SUMMARY—Adopts the Uniform Unclaimed Property Act. (BDR 10-718)"

"AN ACT relating to unclaimed property; adopting the Uniform Unclaimed Property Act; repealing conflicting provisions of the existing Uniform Disposition of Unclaimed Property Act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, Nevada has enacted the Uniform Disposition of Unclaimed Property Act. The existing Uniform Act establishes the powers, duties and liabilities of the State and other persons concerning certain property which is abandoned and unclaimed by its owner. (Chapter 120A of NRS)

This bill replaces the existing Uniform Act with the updated and revised Uniform Unclaimed Property Act (1995). This bill retains many of the provisions of the existing Uniform Act. However, this bill reorganizes certain provisions from the existing Uniform Act to eliminate redundancy, it updates certain provisions to reflect holdings by the United States Supreme Court and it adds certain provisions regarding application and enforcement of the Act.

Under the existing Uniform Act, certain tangible property such as the contents of safe-deposit boxes and intangible property such as traveler's checks, money orders, stocks and monies owed by insurance companies, retirement plans and businesses are considered unclaimed by their owners after a certain period of abandonment. (NRS 120A.160-120A.240) Section 8 of this bill reorganizes into a single section all of the periods of abandonment that are set forth in separate sections in the existing Uniform Act.

The existing Uniform Act does not contain the provisions in sections 10 and 18 of this bill which codify certain rules of priority established by *the* United States Supreme Court when more than one state seeks custody over unclaimed property. (*Delaware v. New York*, 507 U.S. 490, 113 S. Ct. 1550 (1993); *Pennsylvania v. New York*, 407 U.S. 206, 92 S. Ct. 2075 (1972); *Texas v. New Jersey*, 379 U.S. 674, 85 S. Ct. 626 (1965))

The existing Uniform Act does not contain the provisions in section 12 of this bill which clarify the State's burden of proof when it is trying to show the existence and amount of unclaimed property in the possession of certain holders and which recognizes several affirmative defenses that may be established by those holders.

The existing Uniform Act does not contain the provisions in section 25 of this bill which require holders of unclaimed property and issuers of traveler's checks and money orders to maintain records of certain information for a designated number of years.

The existing Uniform Act contains criminal penalties for persons who do not comply with the provisions of the Act. (NRS 120A.440) This bill eliminates those criminal penalties, and section 28 of this bill adds provisions which impose civil monetary penalties on holders of unclaimed property who fail to report, pay or deliver the unclaimed property to the State.

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

Section 1. Chapter 120A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this act.

Sec. 2. *"Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.*

Sec. 3. *"Mineral" means gas, oil, coal and other gaseous, liquid and solid hydrocarbons, oil shale, cement material, sand, gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resource or any other substance defined as a mineral by the law of this State.*

Sec. 4. *"Mineral proceeds" means amounts payable for the extraction, production or sale of minerals or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes , without limitation, amounts payable:*

1. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

2. For the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

3. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.

Sec. 5. *"Property" means tangible property described in section 9 of this act or a fixed and certain interest in intangible property that is held, issued or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality, and all income or increments therefrom. The term includes , without limitation, property that is referred to as or evidenced by:*

1. Money or a check, draft, deposit, interest or dividend;

2. A credit balance, customer's overpayment, ~~[gift certificate,]~~ security deposit, refund, credit memorandum, unpaid wage, mineral proceeds or unidentified remittance;

3. Stock or other evidence of ownership of an interest in a business association or financial organization;

4. A bond, debenture, note or other evidence of indebtedness;

5. Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions;

6. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; and

7. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits.

Sec. 6. *"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.*

Sec. 7. *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 8. *1. Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:*

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) ~~*[A gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is deemed to be 60 percent of the certificate's face value;*~~

~~*[(h)]*~~ *Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;*

~~*[(i)]*~~ *(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;*

~~*[(j)]*~~ *(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;*

~~[(k)]~~ (j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

~~[(l)]~~ (k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

~~[(m)]~~ (l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

~~[(n)]~~ (m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

~~[(o)]~~ (n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the

proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

Sec. 9. *Tangible property held in a safe-deposit box or other safekeeping depository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law are presumed abandoned if the property remains unclaimed by the owner for more than 3 years after expiration of the lease or rental period on the box or other depository.*

Sec. 10. *Except as otherwise provided in this chapter or by other statute of this State, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this State if:*

1. The last known address of the apparent owner, as shown on the records of the holder, is in this State;

2. The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;

3. The records of the holder do not reflect the last known address of the apparent owner and it is established that:

(a) The last known address of the person entitled to the property is in this State; or

(b) The holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

4. The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;

5. The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;

6. The transaction out of which the property arose occurred in this State, the holder is domiciled in a state that does not provide for the escheat or custodial taking of the property and the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide for the escheat or custodial taking of the property; or

7. The property is a traveler's check or money order purchased in this State or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or

custodial taking of the property or do not show the state in which the instrument was purchased.

Sec. 11. *A holder may deduct from property presumed abandoned a charge imposed by reason of the owner's failure to claim the property within a specified time only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge and the holder regularly imposes the charge, which is not regularly reversed or otherwise cancelled. The amount of the deduction must not exceed $5 per month.*

Sec. 12. *A record of the issuance of a check, draft or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the Administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge and want of consideration are affirmative defenses that must be established by the holder.*

Sec. 13. *1. A holder of property presumed abandoned shall make a report to the Administrator concerning the property.*

2. The report must be verified and must contain:

(a) A description of the property;

(b) Except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of $50 or more;

(c) In the case of items valued under $50, a statement of the aggregate value of all items valued under $50 ~~; [.]~~

(d) In the case of an amount of $50 or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;

(e) In the case of property held in a safe-deposit box or other safekeeping depository, an indication of the place where it is held and where it may be inspected by the Administrator and any amounts owing to the holder;

(f) The date, if any, on which the property became payable, demandable or returnable and the date of the last transaction with the apparent owner with respect to the property; and

(g) Other information that the Administrator by regulation prescribes as necessary for the administration of this chapter.

3. If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

4. The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a report with respect to an

insurance company must be filed before May 1 of each year for the calendar year next preceding.

5. The holder of property presumed abandoned shall send written notice to the apparent owner, not more than 120 days or less than 60 days before filing the report, stating that the holder is in possession of property subject to this chapter, if:

(a) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

(b) The claim of the apparent owner is not barred by a statute of limitations; and

(c) The value of the property is $50 or more.

6. Before the date for filing the report, the holder of property presumed abandoned may request the Administrator to extend the time for filing the report. The Administrator may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

7. The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with subsection 5.

8. A person reporting 15 or more items of property pursuant to this section shall file the report electronically in lieu of on paper.

Sec. 14. *1. Except for property held in a safe-deposit box or other safekeeping depository, upon filing the report required by section 13 of this act, the holder of property presumed abandoned shall pay, deliver or cause to be paid or delivered to the Administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe-deposit box or other safekeeping depository may not be delivered to the Administrator until 60 days after filing the report required by section 13 of this act.*

2. If the property reported to the Administrator is a security or security entitlement under NRS 104.8101 to 104.8511, inclusive, the Administrator is an appropriate person to make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with NRS 104.8101 to 104.8511, inclusive.

3. If the holder of property reported to the Administrator is the issuer of a certificated security, the Administrator has the right to obtain a replacement certificate pursuant to NRS 104.8405, but an indemnity bond is not required.

4. An issuer, the holder and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be

indemnified against claims of any person in accordance with section 16 of this act.

Sec. 15. *1. The Administrator shall publish a notice not later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the Administrator. The notice must be published in a newspaper of general circulation in the county of this State in which is located the last known address of any person named in the notice. If a holder does not report an address for the apparent owner or the address is outside this State, the notice must be published in a county that the Administrator reasonably selects. The advertisement must be in a form that, in the judgment of the Administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The form must contain:*

(a) The name of each person appearing to be the owner of the property, as set forth in the report filed by the holder;

(b) The city or town in which the last known address of each person appearing to be the owner of the property is located, if a city or town is set forth in the report filed by the holder;

(c) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the Administrator; and

(d) A statement that information about the property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the Administrator.

2. The Administrator is not required to advertise the name and city or town of an owner of property having a total value less than $50 or information concerning a traveler's check, money order or similar instrument.

Sec. 16. *1. For the purposes of this section, payment or delivery is made in "good faith" if:*

(a) Payment or delivery was made in a reasonable attempt to comply with this chapter;

(b) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and

(c) There is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

2. Upon payment or delivery of property to the Administrator, the State assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the Administrator in good faith is relieved of all liability arising thereafter with respect to the property.

3. A holder who has paid money to the Administrator pursuant to this chapter may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the

Administrator shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument was duly presented and that payment was made to a person who reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made even if the payment was made to a person whose claim was barred under subsection 1 of section 23 of this act.

4. A holder who has delivered property other than money to the Administrator pursuant to this chapter may reclaim the property if it is still in the possession of the Administrator, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

5. The Administrator may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

6. If a holder pays or delivers property to the Administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the Administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim resulting from payment or delivery of the property to the Administrator.

7. Property removed from a safe-deposit box or other safekeeping depository is received by the Administrator subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The Administrator shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the Administrator in selling the property.

Sec. 17. *If property other than money is delivered to the Administrator under this chapter, the owner is entitled to receive from the Administrator any income or gain realized or accruing on the property at or before liquidation or conversion of the property into money.*

Sec. 18. *1. After property has been paid or delivered to the Administrator under this chapter, another state may recover the property if:*

(a) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(b) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property and under the laws of that state subsequently enacted the

property has escheated or become subject to a claim of abandonment by that state;

(c) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(d) The property was subjected to custody by this State under subsection 6 of section 10 of this act and under the laws of the state of domicile of the holder the property has escheated or become subject to a claim of abandonment by that state; or

(e) The property is a sum payable on a traveler's check, money order or similar instrument that was purchased in the other state and delivered into the custody of this State under subsection 7 of section 10 of this act, and under the laws of the other state the property has escheated or become subject to a claim of abandonment by that state.

2. A claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the Administrator, who shall decide the claim within 90 days after it is presented. The Administrator shall allow the claim upon determining that the other state is entitled to the abandoned property under subsection 1.

3. The Administrator shall require another state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim to the property.

Sec. 19. *1. A person, excluding another state, claiming property paid or delivered to the Administrator may file a claim on a form prescribed by the Administrator and verified by the claimant.*

2. Within 90 days after a claim is filed, the Administrator shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Administrator shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Administrator or maintain an action under section 20 of this act.

3. Except as otherwise provided in subsection 5, within 30 days after a claim is allowed, the property or the net proceeds of a sale of the property must be delivered or paid by the Administrator to the claimant, together with any dividend, interest or other increment to which the claimant is entitled under NRS 120A.360 and section 17 of this act.

4. A holder who pays the owner for property that has been delivered to the State and which, if claimed from the Administrator by the owner would be subject to an increment under NRS 120A.360 and section 17 of this act may recover from the Administrator the amount of the increment.

5. The Administrator may require a person with a claim in excess of $2,000 to furnish a bond and indemnify the State against any loss resulting from the approval of such claim if the claim is based upon an original

instrument, including, without limitation, a certified check or a stock certificate or other proof of ownership of securities, which cannot be furnished by the person with the claim.

Sec. 20. *A person aggrieved by a decision of the Administrator or whose claim has not been acted upon within 90 days after its filing may maintain an original action to establish the claim in the district court, naming the Administrator as a defendant. If the aggrieved person establishes the claim in an action against the Administrator, the court may award the claimant reasonable attorney's fees.*

Sec. 21. *1. The Administrator may decline to receive property reported under this chapter which the Administrator considers to have a value less than the expenses of notice and sale.*

2. A holder, with the written consent of the Administrator and upon conditions and terms prescribed by the Administrator, may report and deliver property before the property is presumed abandoned. Property so delivered must be held by the Administrator and is not presumed abandoned until it otherwise would be presumed abandoned under this chapter.

Sec. 22. *If the Administrator determines after investigation that property delivered under this chapter has no substantial commercial value, the Administrator may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the State or any officer or employee or against the holder for or on account of an act of the Administrator under this section, except for intentional misconduct or malfeasance.*

Sec. 23. *1. The expiration, before or after October 1, 2007, of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute or court order, does not preclude the property from being presumed abandoned or affect a duty to file a report or to pay or deliver or transfer property to the Administrator as required by this chapter.*

2. An action or proceeding may not be maintained by the Administrator to enforce this chapter in regard to the reporting, delivery or payment of property more than 10 years after the holder specifically identified the property in a report filed with the Administrator or gave express notice to the Administrator of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

Sec. 24. *1. The Administrator may require a person who has not filed a report, or a person who the Administrator believes has filed an inaccurate, incomplete or false report, to file a verified report in a form specified by the Administrator. The report must state whether the person is holding property reportable under this chapter, describe property not previously reported or as to which the Administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.*

2. The Administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has

complied with this chapter. The Administrator may conduct the examination even if the person believes he is not in possession of any property that must be reported, paid or delivered under this chapter. The Administrator may contract with any other person to conduct the examination on behalf of the Administrator.

3. The Administrator at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association or financial organization that is the holder of property presumed abandoned if the Administrator has given the notice required by subsection 2 to both the association or organization and the agent at least 90 days before the examination.

4. Documents and working papers obtained or compiled by the Administrator, or the Administrator's agents, employees or designated representatives, in the course of conducting an examination are confidential and are not public records, but the documents and papers may be:

(a) Used by the Administrator in the course of an action to collect unclaimed property or otherwise enforce this chapter;

(b) Used in joint examinations conducted with or pursuant to an agreement with another state, the Federal Government or any other governmental subdivision, agency or instrumentality;

(c) Produced pursuant to subpoena or court order; or

(d) Disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this subdivision, if the other state is bound to keep the documents and papers confidential.

5. If an examination of the records of a person results in the disclosure of property reportable under this chapter, the Administrator may assess the cost of the examination against the holder at the rate of $200 a day for each examiner or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of an examination made pursuant to subsection 3 may be assessed only against the business association or financial organization.

6. If, after October 1, 2007, a holder does not maintain the records required by section 25 of this act and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the Administrator may require the holder to report and pay to the Administrator the amount the Administrator reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation, should have been but was not reported.

Sec. 25. *1. Except as otherwise provided in subsection 2, a holder required to file a report under section 13 of this act shall maintain the records containing the information required to be included in the report for 7 years after the holder files the report, unless a shorter period is provided by regulation of the Administrator.*

2. A business association or financial organization that sells, issues or provides to others for sale or issue in this State, traveler's checks, money

orders or similar instruments other than third-party bank checks, on which the business association or financial organization is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the State and date of issue, for 3 years after the holder files the report.

Sec. 26. *The Administrator may maintain an action in this State or another state to enforce this chapter. The court may award reasonable attorney's fees to the prevailing party.*

Sec. 27. *1. The Administrator may enter into an agreement with another state to exchange information relating to abandoned property or its possible existence. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized in section 24 of this act. The Administrator by regulation may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.*

2. The Administrator may join with another state to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

3. At the request of another state, the Attorney General of this State may maintain an action on behalf of the other state to enforce, in this State, the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in maintaining the action.

4. The Administrator may request that the attorney general of another state or another attorney commence an action in the other state on behalf of the Administrator. With the approval of the Attorney General of this State, the Administrator may retain any other attorney to commence an action in this State on behalf of the Administrator. This State shall pay all expenses, including attorney's fees, in maintaining an action under this subsection. With the Administrator's approval, the expenses and attorney's fees may be paid from money received under this chapter. The Administrator may agree to pay expenses and attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses or attorney's fees paid under this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter.

Sec. 28. *1. A holder who fails to report, pay or deliver property within the time prescribed by this chapter shall pay to the Administrator interest at the rate of 18 percent per annum on the property or value thereof from the date the property should have been reported, paid or delivered.*

2. Except as otherwise provided in subsection 3, a holder who fails to report, pay or deliver property within the time prescribed by this chapter or fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil

penalty of $200 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of $5,000.

3. A holder who willfully fails to report, pay or deliver property within the time prescribed by this chapter or willfully fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of $1,000 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of $25,000, plus 25 percent of the value of any property that should have been but was not reported.

4. A holder who makes a fraudulent report shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of $1,000 for each day from the date a report under this chapter was due, up to a maximum of $25,000, plus 25 percent of the value of any property that should have been but was not reported.

5. The Administrator for good cause may waive, in whole or in part, interest under subsection 1 and penalties under subsections 2 and 3, and shall waive penalties if the holder acted in good faith and without negligence.

Sec. 29. *1. An agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the Administrator. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the Administrator's denial of a claim.*

2. An agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property, is enforceable only if the agreement is in writing, clearly sets forth the nature of the property and the services to be rendered, is signed by the apparent owner and states the value of the property before and after the fee or other compensation has been deducted.

3. If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

4. An agreement covered by this section must not provide for compensation that is more than 10 percent of the total value of the property that is the subject of the agreement. An agreement that provides for compensation that is more than 10 percent of the total value of the property that is the subject of the agreement is unenforceable except by the owner. An owner who has agreed to pay compensation that is more than 10 percent of the total value of the property that is the subject of the agreement, or the Administrator on behalf of the owner, may maintain an action to reduce the compensation to an amount that does not exceed 10 percent of the total value

of the property. The court may award reasonable attorney's fees to an owner who prevails in the action.

5. This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than that the compensation is more than 10 percent of the total value of the property that is the subject of the agreement.

Sec. 30. NRS 120A.010 is hereby amended to read as follows:

120A.010 This chapter may be cited as the Uniform ~~[Disposition of]~~ Unclaimed Property Act.

Sec. 31. NRS 120A.020 is hereby amended to read as follows:

120A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 120A.025 to 120A.120, inclusive, *and sections 2 to 7, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 32. NRS 120A.040 is hereby amended to read as follows:

120A.040 "Business association" means a corporation, ~~[other than a public corporation, a]~~ joint-stock company, investment company, partnership, unincorporated association, joint venture, limited-liability company, business trust, *trust company, land bank, safe-deposit company or other safekeeping depository,* financial organization, insurance company, mutual fund or utility, or another business entity consisting of one or more persons, whether or not for profit.

Sec. 33. NRS 120A.070 is hereby amended to read as follows:

120A.070 "Financial organization" means a savings and loan association, *building and loan association, savings bank, industrial bank, bank,* banking organization or credit union.

Sec. 34. NRS 120A.100 is hereby amended to read as follows:

120A.100 "Owner" means a *person who has a legal or equitable interest in property subject to this chapter or the person's legal representative. The term includes* , *without limitation, a* depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, *and* a creditor, claimant or payee in the case of other ~~[intangible property, or a person having a legal or equitable interest in property subject to this chapter, or his legal representative.]~~ *property.*

Sec. 35. NRS 120A.110 is hereby amended to read as follows:

120A.110 "Person" means a natural person, business association, *financial organization,* estate, trust, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

Sec. 36. NRS 120A.120 is hereby amended to read as follows:

120A.120 "Utility" means any person who owns or operates ~~[within this State]~~ for public use any plant, equipment, *real* property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

Sec. 37. NRS 120A.130 is hereby amended to read as follows:

120A.130 This chapter shall be ~~[so construed as]~~ *applied and construed* to effectuate its general purpose to make uniform the law ~~[of those states which]~~ *with respect to the subject matter of the Uniform Unclaimed Property Act among the states that* enact it.

Sec. 38. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to gaming chips or tokens which are not redeemed at an establishment.

2. As used in this section:

(a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) "Gaming chip or token" means any object which may be redeemed at an establishment for cash or any other representative of value.

Sec. 39. NRS 120A.360 is hereby amended to read as follows:

120A.360 1. Except as otherwise provided in subsections 4, 5 and 6, all abandoned property other than money delivered to the Administrator under this chapter must, within 2 years after the delivery, be sold by the Administrator to the highest bidder at public sale in whatever manner affords *,* in his judgment *,* the most favorable market for the property . ~~[involved.]~~ The Administrator may decline the highest bid and reoffer the property for sale if he considers the ~~[price]~~ bid *to be* insufficient.

2. Any sale held under this section must be preceded by a single publication of notice *,* ~~[thereof]~~ at least ~~[2 weeks in advance of the]~~ *3 weeks before* sale *,* in a newspaper of general circulation in the county ~~[where]~~ *in which* the property is to be sold.

3. The purchaser *of property* at any sale conducted by the Administrator pursuant to this chapter ~~[is vested with title to]~~ *takes* the property ~~[purchased, free from]~~ *free of* all claims of the owner or ~~[prior]~~ *previous* holder and of all persons claiming through or under them. The Administrator shall execute all documents necessary to complete the transfer of ~~[title.]~~ *ownership.*

4. The Administrator need not offer any property for sale if ~~[, in his opinion,]~~ *he considers that* the probable cost of the sale ~~[exceeds the value of the property.]~~ *will exceed the proceeds of the sale.* The Administrator may destroy or otherwise dispose of such property or may transfer it to:

(a) The Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society, upon its written request, if the property has, in the opinion of the requesting institution, historical, artistic or literary value and is worthy of preservation;

(b) A genealogical library, upon its written request, if the property has genealogical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society; or

(c) A veterans' or military museum, upon its written request, if the property has military or military historical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society.

➥ An action may not be maintained by any person against the holder of the property because of that transfer, disposal or destruction.

5. *Securities delivered to the Administrator pursuant to this chapter may be sold by the Administrator at any time after the delivery.* Securities listed on an established stock exchange must be sold at the prevailing price for that security on the exchange at the time of sale. Other securities not listed on an established stock exchange may be sold:

(a) Over the counter at the prevailing price for that security at the time of sale; or

(b) By any other method the Administrator deems acceptable.

6. The Administrator shall hold property that was removed from a safe-deposit box or other safekeeping repository for 1 year after the date of the delivery of the property to the Administrator, unless that property is a will or a codicil to a will, in which case the Administrator shall hold the property for 10 years after the date of the delivery of the property to the Administrator. If no claims are filed for the property within that period *and the Administrator determines that the probable cost of the sale of the property will exceed the proceeds of the sale,* it may be destroyed.

Sec. 40. NRS 120A.370 is hereby amended to read as follows:

120A.370 1. There is hereby created in the State Treasury the Abandoned Property Trust ~~[Fund.]~~ *Account.*

2. All money received by the Administrator under this chapter, including the proceeds from the sale of abandoned property , must be deposited by the Administrator in the State Treasury for credit to the Abandoned Property Trust ~~[Fund.]~~ *Account.*

3. Before making a deposit, the Administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and the name and last known address of each insured person or annuitant , and with respect to each policy or contract listed in the report of an insurance company, its number, the name of the company and the amount due. The record must be available for public inspection at all reasonable business hours.

4. The Administrator may pay from money available in the Abandoned Property Trust ~~[Fund]~~ *Account* :

(a) Any costs in connection with the sale of abandoned property.

(b) Any costs of mailing and publication in connection with any abandoned property.

(c) Reasonable service charges.

(d) Any costs incurred in examining the records of a holder and in collecting the abandoned property.

(e) Any valid claims filed pursuant to this chapter.

5. ~~[At]~~ ~~*[By]*~~ *Except as otherwise provided in NRS 120A.360, by* the end of each fiscal year, the amount of the balance in the *Abandoned Property Trust* ~~[Fund]~~ *Account* in excess of $100,500 must be transferred. The first $7,600,000 each year must be transferred to the Millennium Scholarship Trust Fund created by NRS 396.926. The remainder must be transferred to the State General Fund, but remains subject to the valid claims of holders

pursuant to ~~[NRS 120A.340 or owners pursuant to NRS 120A.380.]~~ *section 16 of this act and owners pursuant to section 19 of this act, except that a claim of a holder or owner may not be paid from money transferred to the Millennium Scholarship Trust Fund pursuant to this section.*

6. If there is an insufficient amount of money in the Abandoned Property Trust ~~[Fund]~~ *Account* to pay any cost or charge pursuant to subsection 4, the State Board of Examiners may, upon the application of the Administrator, authorize a temporary transfer from the State General Fund to the Abandoned Property Trust ~~[Fund]~~ *Account* of an amount necessary to pay those costs or charges. The Administrator shall repay the amount of the transfer as soon as sufficient money is available in the Abandoned Property Trust ~~[Fund.]~~ *Account.*

Sec. 41. NRS 32.020 is hereby amended to read as follows:

32.020 1. In any receivership proceeding instituted in which a dividend has been declared and ordered paid to creditors, any dividend which remains unclaimed for 3 years reverts to the general fund of the estate and must be applied as follows:

(a) To the payment of costs and expenses of the administration of the estate and receivership.

(b) To a new dividend distributed to creditors whose claims have been allowed but not paid in full. After those claims have been paid in full, the balance is presumed abandoned under *chapter 120A of* NRS . ~~[120A.210.]~~

2. This section applies to any receivership proceeding which may be brought, and includes any bank, banking corporation, corporation, copartnership, company, association or natural person.

Sec. 42. NRS 607.170 is hereby amended to read as follows:

607.170 1. The Labor Commissioner may prosecute a claim for wages and commissions or commence any other action to collect wages, commissions and other demands of any person who is financially unable to employ counsel in a case in which, in the judgment of the Labor Commissioner, the claim for wages or commissions or other action is valid and enforceable in the courts.

2. In all matters relating to wages or commissions, the Labor Commissioner may, in accordance with the provisions of NRS 607.210, subpoena any person whose appearance is required to adjust and settle claims or other actions for wages or commissions before bringing suit in those matters, and the Labor Commissioner may effect reasonable compromises of those matters.

3. The Labor Commissioner or his Deputy may maintain a commercial account with any bank or credit union within this State for the deposit of money collected for claims for wages or commissions. The money must be promptly paid to the person entitled thereto. At the end of each calendar year, any unclaimed money in the commercial account which has been a part of the account for 1 year or more is presumed abandoned under *chapter 120A of* NRS . ~~[120A.220.]~~

Sec. 43. NRS 120A.030, 120A.095, 120A.150, 120A.160, 120A.170, 120A.180, 120A.185, 120A.190, 120A.200, 120A.210, 120A.220, 120A.225, 120A.230, 120A.240, 120A.250, 120A.260, 120A.270, 120A.280, 120A.300, 120A.310, 120A.320, 120A.330, 120A.340, 120A.350, 120A.380, 120A.390, 120A.400, 120A.405, 120A.410, 120A.420, 120A.430, 120A.440 and 120A.450 are hereby repealed.

Sec. 44. 1. Except as otherwise provided in this section:

(a) The provisions of this act are intended to substitute the Uniform Unclaimed Property Act (1995), in the form enacted by this act, in a continuing way for the Uniform Disposition of Unclaimed Property Act, as that act existed in chapter 120A of NRS before October 1, 2007.

(b) If there is a conflict between the provisions of this act and the provisions of the Uniform Disposition of Unclaimed Property Act, as that act existed in chapter 120A of NRS before October 1, 2007, the provisions of this act control.

2. The provisions of this act do not repeal, abrogate or supersede the provisions of section 15 of chapter 347, Statutes of Nevada 2001, at page 1652, to the extent that those provisions remain applicable to the property described in that section.

3. An initial report filed under the provisions of this act for property which was not required to be reported before October 1, 2007, but which is subject to the provisions of this act, must include all items of property that would have been presumed abandoned during the 10-year period next preceding October 1, 2007, as if the provisions of this act had been in effect during that period.

4. The provisions of this act do not relieve a holder of a duty that arose before October 1, 2007, to report, pay or deliver property. Except as otherwise provided in subsection 2 of section 23 of this act, a holder who did not comply with the law in effect before October 1, 2007, is subject to the applicable provisions for enforcement and penalties which then existed, which are continued in effect for the purpose of this section.

5. Any administrative regulations which were adopted under the provisions of chapter 120A of NRS before October 1, 2007, and which do not conflict with the provisions of this act, remain in force until amended or repealed by the Administrator pursuant to NRS 120A.140.

LEADLINES OF REPEALED SECTIONS

120A.030 "Banking organization" defined.

120A.095 "Intangible property" defined.

120A.150 Periods of limitation not bar for purposes of chapter; limitation on actions by Administrator.

120A.160 Property held by business associations.

120A.170 Unclaimed money held by insurance companies.

120A.180 Deposits and advance payments held by utilities.

120A.185 Unclaimed wages held by business.

120A.190 Intangible interest or money held or owing by business associations.

120A.200 Intangible personal property distributable in course of dissolution.

120A.210 Intangible personal property held in fiduciary capacity.

120A.220 Intangible personal property held by court, public corporation or officer, or governmental entity.

120A.225 Intangible personal property held by intermediary in another state.

120A.230 Intangible personal property not otherwise covered by chapter.

120A.240 Reciprocity for property presumed abandoned or escheated under laws of another state.

120A.250 Annual report of property presumed abandoned: Filing; contents; verification.

120A.260 Communication with owner before filing annual report.

120A.270 Reports by business association not holding property presumed abandoned.

120A.280 Notice to owners of abandoned property.

120A.300 Charge upon dormant accounts; limitation upon rate.

120A.310 Charge upon unclaimed property.

120A.320 Payment or delivery of abandoned property to Administrator; delivery of duplicate certificate or other evidence of ownership to Administrator.

120A.330 Administrator may decline to receive abandoned property.

120A.340 Relief from liability by payment or delivery; reimbursement or indemnification of holder.

120A.350 Interest, dividends and other increments accruing before liquidation or conversion to money.

120A.380 Claim for property delivered to State.

120A.390 Determination of claim.

120A.400 Commencement of action in district court to establish claim.

120A.405 Agreements to recover property presumed abandoned.

120A.410 Reciprocity.

120A.420 Examination of records of holders of abandoned property.

120A.430 Action to enforce payment or delivery of abandoned property to Administrator; award of costs and attorney's fees; imposition of civil penalty.

120A.440 Criminal penalties.

120A.450 Interest.

Senator Amodei moved that the Senate concur in the Assembly amendment to Senate Bill No. 103.

Remarks by Senator Care.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 110.

The following Assembly amendment was read:

Amendment No. 819.

"SUMMARY—Revises provisions governing the administration of examinations to pupils enrolled in the public schools. (BDR 34-474)"

"AN ACT relating to education; revising provisions governing the administration of tests, examinations and assessments by the boards of trustees of school districts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the administration of the following examinations to pupils enrolled in the public schools: (1) examinations that are administered to a national reference group of pupils in grades 4, 7 and 10 (norm-referenced tests or NRTs); (2) examinations that assess the progress of pupils on the state standards of content and performance in grades 3 through 8 (criterion-referenced tests or CRTs); (3) the high school proficiency examination which pupils must pass to receive a standard high school diploma; and (4) examinations of the National Assessment of Educational Progress. (NRS 389.012, 389.015, 389.550) With the exception of the NRTs, the administration of these examinations is required by the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq.

Section 2 of this bill limits the district-wide tests, examinations and assessments that the board of trustees of a school district may administer between July 1, 2007, and January 1, 2009.

Section ~~[1]~~ *3* of this bill authorizes the board of trustees of each school district to require *, beginning on January 1, 2009,* the administration of ~~[additional]~~ district-wide tests, examinations and assessments that the board of trustees determines are vital to measuring pupil achievement and progress.

Section ~~[2]~~ *4* of this bill requires the ~~[Boards of Trustees of the Clark County and Washoe County School Districts to submit reports]~~ *board of trustees of each school district* to *submit a report to* the Legislative Committee on Education concerning the testing of pupils within ~~[their respective districts.]~~ *the school district during the 2006-2007 school year.*

WHEREAS, The Federal Government and the Nevada Legislature have imposed upon Nevada's public schools progressively more stringent requirements to demonstrate improved academic performance of pupils; and

WHEREAS, As a result of these requirements, the public schools in this State are required to administer an increasing number of standardized tests to pupils, including norm-referenced tests, criterion-referenced tests, proficiency tests and tests of the National Assessment of Educational Progress; and

WHEREAS, The school districts and charter schools in this State currently administer a variety of tests other than those required by state and federal law; and

WHEREAS, A recent report by the State Board of Education indicates that, in the aggregate, the task of preparing for and administering all these tests in schools throughout this State annually consumes hundreds of employee hours and costs at least $13 million; and

WHEREAS, Although there is an undeniable need for test data to evaluate the progress of Nevada's public schools and pupils in meeting the standards of academic performance, the Legislature hereby expresses that the demands for statistical information should not be allowed to unnecessarily divert the time for teachers and pupils to accomplish the work required to meet those standards; and

WHEREAS, Assembly Bill No. 484 of this Session, if enacted, requires the Legislative Committee on Education to study the issue of testing during the 2007-2009 interim, including, without limitation, the quantity and quality of tests administered in the public schools; and

WHEREAS, Pending completion of the study required by Assembly Bill No. 484 of this Session, if enacted, and potential action by the Legislature in response to the recommendations of that study, the members of the 74th Session of the Legislature hereby deem it appropriate to impose a moratorium on the administration of any test that is not mandated by state or federal law or of any test that was not adopted by a school district before July 1, 2007, now, therefore,

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in subsection 2, the board of trustees of a school district shall not administer a district-wide test, examination or assessment unless that test, examination or assessment:

(a) Is required by state or federal law; or

(b) Was adopted by the school district before July 1, 2007.

2. The provisions of this section do not apply to a test, examination or assessment that a pupil voluntarily takes without a district-wide requirement, including, without limitation, an advanced placement examination.

~~[Section 1.]~~ *Sec. 3.* ~~[Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination, the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a

direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

~~[Sec. 2.]~~ *Sec. 4.* 1. The ~~[Boards of Trustees of the Clark County School District and the Washoe County School District]~~ *board of trustees of each school district* shall prepare and submit to the Legislative Committee on Education on or before ~~[July 1, 2008, reports]~~ *March 1, 2008, a report* concerning testing of pupils within ~~[their respective school districts.]~~ *the school district during the 2006-2007 school year.*

2. The ~~[reports]~~ *report* required pursuant to subsection 1 must include:

(a) The number of hours pupils in the district spend in testing;

(b) *The number of hours that teachers and other licensed educational personnel and educational support staff employed by the school district spend in the administration of tests and other activities relating to testing;*

(c) The best practices adopted by the district with respect to using testing time efficiently in comparison with using the time for instruction; and

~~[(c)]~~ *(d)* Any recommendations for legislative changes or changes in practices with respect to the testing of pupils.

Sec. 5. In making the determination required by subsection 1 of section 3 of this act concerning tests, examinations and assessments, the board of trustees of each school district shall consider the results of the study conducted by the Legislative Committee on Education pursuant to Assembly Bill No. 484 of this Session, if enacted, and recommendations made by the Committee as a result of that study.

~~[Sec. 3.]~~ *Sec. 6.* ~~[This act becomes]~~

1. This section and sections 1, 2, 4 and 5 of this act become effective on July 1, 2007.

2. Section 3 of this act becomes effective on January 1, 2009.

3. Section 2 of this act expires by limitation on January 1, 2009.

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 110.

Remarks by Senator Raggio.

Senator Raggio moved Senate Bill No. 110 be taken from Unfinished Business and placed on Unfinished Business on the third agenda.

Motion carried.

Senate Bill No. 111.

The following Assembly amendment was read:

Amendment No. 915.

"SUMMARY—Clarifies applicability of certain provisions to certain suppliers of utility services. (BDR 58-985)"

"AN ACT relating to public utilities; clarifying the applicability of ~~[certain provisions to cooperative associations or nonprofit corporations or associations and other]~~ *the Utility Environmental Protection Act to certain utility facilities owned by* suppliers of utility services that provide utility services only to ~~[their own members;]~~ *the members of those suppliers;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a ~~[cooperative association or nonprofit corporation or association and every other]~~ supplier of utility services that provides utility services only to its own members is subject to the jurisdiction, control and regulation of the Public Utilities Commission of Nevada for certain limited purposes. (NRS 704.675) Section 1 of this bill clarifies that ~~[such entities are]~~ *, if such a supplier of utility services is not jointly owned by certain other entities and is subject to the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 et seq., a utility facility owned by the supplier is* exempt from the provisions of the Utility Environmental Protection Act, which controls the permitting process for the construction of new utility facilities. (NRS 704.820-704.900)

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

Section 1. NRS 704.865 is hereby amended to read as follows:

704.865 1. A person, other than a local government, shall not commence to construct a utility facility in the State without first having obtained a permit therefor from the Commission. The replacement of an existing facility with a like facility, as determined by the Commission, does not constitute construction of a utility facility. Any facility, with respect to which a permit is required, must thereafter be constructed, operated and maintained in conformity with the permit and any terms, conditions and modifications contained therein. A permit may only be issued pursuant to NRS 704.820 to 704.900, inclusive. Any authorization relating to a utility facility granted under other laws administered by the Commission constitutes a permit under those sections if the requirements of those sections have been complied with in the proceedings leading to the granting of the authorization.

2. A permit may be transferred, subject to the approval of the Commission, to a person who agrees to comply with the terms, conditions and modifications contained therein.

3. NRS 704.820 to 704.900, inclusive, do not apply to any utility facility:

(a) For which, before July 1, 1971, an application for the approval of the facility has been made to any federal, state, regional or local governmental agency which possesses the jurisdiction to consider the matters prescribed for finding and determination in NRS 704.890;

(b) For which, before July 1, 1971, a governmental agency has approved the construction of the facility and the person has incurred indebtedness to finance all or part of the cost of the construction; ~~[or]~~

(c) Over which an agency of the Federal Government has exclusive jurisdiction ~~[.]~~ *; or*

(d) Owned by a ~~[cooperative association, nonprofit corporation, association or]~~ supplier of services described in NRS 704.673 or 704.675 ~~[.]~~ that:

(1) Is not jointly owned by or with an entity that is not such a supplier of services; and

(2) Is subject to the provisions of the National Environmental Policy Act of 1969, 42 U.S.C §§ 4321 et seq.

4. Any person intending to construct a utility facility excluded from NRS 704.820 to 704.900, inclusive, pursuant to paragraph (a) or (b) of subsection 3 may elect to waive the exclusion by delivering notice of its waiver to the Commission. NRS 704.820 to 704.900, inclusive, thereafter apply to each utility facility identified in the notice from the date of its receipt by the Commission.

Sec. 2. This act becomes effective on July 1, 2007.

Senator Townsend moved that the Senate concur in the Assembly amendment to Senate Bill No. 111.

Remarks by Senator Townsend.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senator Raggio moved that the Senate recess until 1:30 p.m.

Motion carried.

Senate in recess at 12:53 p.m.

SENATE IN SESSION

At 1:54 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 25.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 758.

"SUMMARY—Makes various changes to provisions governing business associations. (BDR 7-544)"

"AN ACT relating to business associations; *requiring certain business associations to maintain certain information concerning their ownership at the registered office or principal place of business; authorizing the Secretary of State to suspend or revoke the right of certain business associations to transact business under certain circumstances;* revising the provisions pertaining to the name of a foreign limited partnership; making various other changes pertaining to business associations; *providing for the licensing and regulation of transfer agents;* providing for the correction of certain records

filed with the Office of the Secretary of State; applying prospectively the requirements applicable to certain documents filed with the Office of the Secretary of State that contain certain identifying terms relating to architecture, interior design or residential design; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1, 2, 5-13, 17-29, 31-40 and 56-60 of this bill: (1) require certain business associations to maintain certain information concerning their ownership at the registered office or principal place of business; and (2) authorize the Secretary of State to suspend or revoke the right of such business associations to transact business in this State if they fail to comply with the requirements pertaining to such information.

Section 4 of this bill sets forth the information required to be provided to the district court by an applicant for custodianship of a corporation and the information required to be provided to the Secretary of State by the custodian. (NRS 78.347)

Section ~~[4]~~ *30* of this bill allows a foreign limited partnership to abbreviate its name. (NRS 88.585)

Section 41-51 of this bill provide for the licensing and regulation of transfer agents.

Section ~~[7]~~ *54* of this bill authorizes the Secretary of State to adopt regulations prescribing procedures for correcting certain fraudulent or false records filed with the Office of the Secretary of State.

Section ~~[8]~~ *55* of this bill amends Assembly Bill No. 26 of this session to apply prospectively the provisions of that bill which add requirements applicable to certain documents filed with the Office of the Secretary of State that contain certain identifying terms relating to architecture, interior design or residential design.

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

Section 1. Chapter 78 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any records required to be kept at the registered office pursuant to NRS 78.105, a corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. The corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 2. NRS 78.180 is hereby amended to read as follows:

78.180 1. Except as otherwise provided in subsections 3 and 4 ~~,~~ *and section 1 of this act,* the Secretary of State shall reinstate a corporation which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the corporation its right to carry on business in this State, and to exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 78.150;

(2) The statement required by NRS 78.153, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 78.150 and 78.170 for each year or portion thereof during which it failed to file each required annual list in a timely manner;

(2) The fee set forth in NRS 78.153, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the corporation, he shall issue to the corporation a certificate of reinstatement if the corporation:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the charter occurred only by reason of failure to pay the fees and penalties.

4. If a corporate charter has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the charter must not be reinstated.

Sec. 3. NRS 78.185 is hereby amended to read as follows:

78.185 1. Except as otherwise provided in subsection 2, if a corporation applies to reinstate or revive its charter but its name has been legally reserved or acquired by another artificial person formed, organized, registered or qualified pursuant to the provisions of this title whose name is on file with the Office of the Secretary of State or reserved in the Office of the Secretary of State pursuant to the provisions of this title, the corporation shall in its application for reinstatement submit in writing to the Secretary of State some other name under which it desires its corporate existence to be reinstated or revived. If that name is distinguishable from all other names reserved or otherwise on file, the Secretary of State shall ~~[reinstatement]~~ *reinstate* the corporation under that new name. Upon the issuance of a certificate of reinstatement or revival under that new name, the articles of incorporation of the applying corporation shall be deemed to reflect the new name without the corporation having to comply with the provisions of NRS 78.385, 78.390 or 78.403.

2. If the applying corporation submits the written, acknowledged consent of the artificial person having a name, or the person who has reserved a name, which is not distinguishable from the old name of the applying corporation or a new name it has submitted, it may be reinstated or revived under that name.

3. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination of these.

4. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 4. NRS 78.347 is hereby amended to read as follows:

78.347 1. Any stockholder may apply to the district court to appoint one or more persons to be custodians of the corporation, and, if the corporation is insolvent, to be receivers of the corporation when:

(a) The business of the corporation is suffering or is threatened with irreparable injury because the directors are so divided respecting the management of the affairs of the corporation that a required vote for action by the board of directors cannot be obtained and the stockholders are unable to terminate this division; or

(b) The corporation has abandoned its business and has failed within a reasonable time to take steps to dissolve, liquidate or distribute its assets in accordance with this chapter.

2. *An applicant on whose behalf a stockholder has applied to the district court for a custodianship pursuant to subsection 1 shall provide the following information, along with an affidavit attesting that such information is true and correct, to the district court:*

(a) A detailed list of all previous applications to a court in any jurisdiction for a custodianship of a publicly traded corporation that were filed by the applicant or an affiliate or subsidiary of the applicant.

(b) If an application listed in paragraph (a) was approved, a detailed description of the activities performed during the custodianship by the applicant or the affiliate or subsidiary of the applicant.

(c) A description of the current corporate status and business operation of any publicly traded corporation for which the applicant and any affiliate or subsidiary of the applicant has held a custodianship.

(d) A full disclosure of any and all previous criminal, administrative, civil or National Association of Securities Dealers, Inc., or Securities and Exchange Commission investigations, violations or convictions concerning the applicant and any affiliate or subsidiary of the applicant.

(e) Evidence of reasonable efforts by the applicant to contact the officers and directors of the corporation for which the custodianship is sought.

(f) Evidence of a demand by the applicant to the officers and directors of the corporation for which the custodianship is sought that the corporation comply with the provisions of chapter 78 of NRS and that the applicant did not receive a response.

3. The district court shall order any applicant who is granted custodianship pursuant to this section to:

(a) Comply with the provisions of NRS 78.180 or 80.170, as applicable. The custodian shall submit evidence of compliance with this paragraph to the district court.

(b) Provide reasonable notice to all shareholders of record of a shareholder meeting to be held within a reasonable time after an application for custodianship or receivership has been granted. The custodian shall submit evidence of compliance with this paragraph to the district court.

(c) Provide the district court with a report of the actions taken at the shareholder meeting noticed by the custodian.

(d) Provide the district court with periodic reports, at intervals to be determined by the court, of the activities of the custodian and the board of directors and the progress of the corporation.

(e) Provide any other information deemed necessary by the court.

4. Within 10 days after being appointed custodian of a Nevada publicly traded corporation, the custodian shall file with the Secretary of State an amendment to the articles of incorporation containing the following information:

(a) Disclosures of any previous criminal, administrative, civil or National Association of Securities Dealer, Inc., or Securities and Exchange Commission investigations, violations or convictions concerning the custodian and any affiliate of the custodian.

(b) A statement indicating that:

(1) Reasonable attempts were made to contact the officers or directors of the corporation to request that the corporation comply with corporate formalities and to continue its business.

(2) The custodian is in fact continuing the business and attempting to further the interests of the shareholders.

(3) The custodian will reinstate or maintain the corporate charter.

(c) Any other information required by regulation to be submitted to the Secretary of State.

5. The Secretary of State may adopt regulations to administer the provisions of subsection 4.

6. A custodian appointed pursuant to this section has all the powers and title of a trustee appointed under NRS 78.590, 78.635 and 78.650, but the authority of the custodian is to continue the business of the corporation and not to liquidate its affairs or distribute its assets, except when the district court so orders and except in cases arising pursuant to paragraph (b) of subsection 1.

Sec. 5. NRS 78.730 is hereby amended to read as follows:

78.730 1. ~~[Any]~~ *Except as otherwise provided in section 1 of this act, any* corporation which did exist or is existing under the laws of this State may, upon complying with the provisions of NRS 78.180, procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or imposed by its original charter and amendments thereto, or existing charter, by filing:

(a) A certificate with the Secretary of State, which must set forth:

(1) The name of the corporation, which must be the name of the corporation at the time of the renewal or revival, or its name at the time its original charter expired.

(2) The name of the person designated as the resident agent of the corporation, his street address for the service of process, and his mailing address if different from his street address.

(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.

(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.

(5) That the corporation desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue through revival its existence pursuant to and subject to the provisions of this chapter.

(b) A list of its president, secretary and treasurer, or the equivalent thereof, and all of its directors and their addresses, either residence or business.

2. A corporation whose charter has not expired and is being renewed shall cause the certificate to be signed by an officer of the corporation. The certificate must be approved by a majority of the voting power of the shares.

3. A corporation seeking to revive its original or amended charter shall cause the certificate to be signed by a person or persons designated or appointed by the stockholders of the corporation. The signing and filing of the certificate must be approved by the written consent of stockholders of the

corporation holding at least a majority of the voting power and must contain a recital that this consent was secured. If no stock has been issued, the certificate must contain a statement of that fact, and a majority of the directors then in office may designate the person to sign the certificate. The corporation shall pay to the Secretary of State the fee required to establish a new corporation pursuant to the provisions of this chapter.

4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence and incorporation of the corporation therein named.

Sec. 6. *Chapter 80 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. A foreign corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. The foreign corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign corporation to transact business that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 7. *NRS 80.170 is hereby amended to read as follows:*

80.170 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ *or section 6 of this act,* the Secretary of State shall reinstate a corporation which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the corporation its right to transact business in this State, and to exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list as provided in NRS 80.110 and 80.140;

(2) The statement required by NRS 80.115, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 80.110 and 80.150 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 80.115, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the corporation, he shall issue to the corporation a certificate of reinstatement if the corporation:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a corporation to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

Sec. 8. Chapter 82 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. The corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 9. NRS 82.5237 is hereby amended to read as follows:

82.5237 1. Except as otherwise provided in subsections 3 and 4 [,] *and section 8 of this act,* the Secretary of State shall reinstate a foreign nonprofit corporation which has forfeited or which forfeits its right to transact business pursuant to the provisions of NRS 82.523 to 82.5239, inclusive, and restore to the foreign nonprofit corporation its right to transact business in this State, and to exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State a list as provided in NRS 82.523; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 82.523 and 82.5235 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $100 for reinstatement.

2. When the Secretary of State reinstates the foreign nonprofit corporation, he shall issue to the foreign nonprofit corporation a certificate of reinstatement if the foreign nonprofit corporation:

(a) Requests a certificate of reinstatement; and

(b) Pays the fees as provided in subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign nonprofit corporation to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

Sec. 10. NRS 82.546 is hereby amended to read as follows:

82.546 1. [Any] *Except as otherwise provided in section 8 of this act, any* corporation which did exist or is existing pursuant to the laws of this State may, upon complying with the provisions of NRS 78.150 and 82.193,

procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or imposed by its original charter and amendments thereto, or its existing charter, by filing:

(a) A certificate with the Secretary of State, which must set forth:

(1) The name of the corporation, which must be the name of the corporation at the time of the renewal or revival, or its name at the time its original charter expired.

(2) The name and street address of the lawfully designated resident agent of the filing corporation, and his mailing address if different from his street address.

(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.

(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.

(5) That the corporation desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue through revival its existence pursuant to and subject to the provisions of this chapter.

(b) A list of its president, secretary and treasurer and all of its directors and their mailing or street addresses, either residence or business.

2. A corporation whose charter has not expired and is being renewed shall cause the certificate to be signed by an officer of the corporation. The certificate must be approved by a majority of the last-appointed surviving directors.

3. A corporation seeking to revive its original or amended charter shall cause the certificate to be signed by its president or vice president and secretary or assistant secretary. The signing and filing of the certificate must be approved unanimously by the last-appointed surviving directors of the corporation and must contain a recital that unanimous consent was secured. The corporation shall pay to the Secretary of State the fee required to establish a new corporation pursuant to the provisions of this chapter.

4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence and incorporation of the corporation named therein.

Sec. 11. *Chapter 86 of NRS is hereby amended by adding thereto the provisions set forth as sections 12 and 13 of this act.*

Sec. 12. *1. In addition to any records required to be kept pursuant to NRS 86.241, a limited-liability company shall maintain at its registered office or principal place of business in this State:*

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. A limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 13. 1. A foreign limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. The foreign limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the registration of the foreign limited-liability company.

5. The Secretary of State shall not reinstate or revive a registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

~~[Section 1.]~~ *Sec. 14.* NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The name and street address of its lawfully designated resident agent in this State; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall ~~[annually]~~ thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an ~~[amended]~~ *annual* list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, cause to be mailed to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file a list required by subsection 2. Failure of any company to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

~~[Sec. 2.]~~ *Sec. 15.* (Deleted by amendment.)

~~[Sec. 3.]~~ *Sec. 16.* (Deleted by amendment.)

Sec. 17. *NRS 86.276 is hereby amended to read as follows:*

86.276 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ *and section 12 of this act,* the Secretary of State shall reinstate any limited-liability company which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the company its right to carry on business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 86.263;

(2) The statement required by NRS 86.264, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 86.263 and 86.272 for each year or portion thereof during which it failed to file in a timely manner each required annual list;

(2) The fee set forth in NRS 86.264, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the limited-liability company, he shall issue to the company a certificate of reinstatement if the limited-liability company:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 86.561.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the charter occurred only by reason of failure to pay the fees and penalties.

4. If a company's charter has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the charter must not be reinstated.

~~*Sec.*~~ ~~18.~~ *NRS 86.5467 is hereby amended to read as follows:*

86.5467 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ *and section 13 of this act,* the Secretary of State shall reinstate a foreign limited-liability company which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited-liability company its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 86.5461;

(2) The statement required by NRS 86.5462, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 86.5461 and 86.5465 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 86.5462, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited-liability company, he shall issue to the foreign limited-liability company a certificate of reinstatement if the foreign limited-liability company:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 86.561.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited-liability company to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right must not be reinstated.

Sec. 19. *NRS 86.580 is hereby amended to read as follows:*

86.580 1. ~~[A]~~ *Except as otherwise provided in section 12 of this act, a* limited-liability company which did exist or is existing pursuant to the laws of this State may, upon complying with the provisions of NRS 86.276, procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or imposed by its original charter and amendments thereto, or existing charter, by filing:

(a) A certificate with the Secretary of State, which must set forth:

(1) The name of the limited-liability company, which must be the name of the limited-liability company at the time of the renewal or revival, or its name at the time its original charter expired.

(2) The name of the person lawfully designated as the resident agent of the limited-liability company, his street address for the service of process, and his mailing address if different from his street address.

(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.

(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.

(5) That the limited-liability company desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue through revival its existence pursuant to and subject to the provisions of this chapter.

(b) A list of its managers, or if there are no managers, all its managing members and their mailing or street addresses, either residence or business.

2. A limited-liability company whose charter has not expired and is being renewed shall cause the certificate to be signed by its manager, or if there is no manager, by a person designated by its members. The certificate must be approved by a majority in interest.

3. A limited-liability company seeking to revive its original or amended charter shall cause the certificate to be signed by a person or persons designated or appointed by the members. The signing and filing of the certificate must be approved by the written consent of a majority in interest and must contain a recital that this consent was secured. The limited-liability company shall pay to the Secretary of State the fee required to establish a new limited-liability company pursuant to the provisions of this chapter.

4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence of the limited-liability company therein named.

Sec. 20. *Chapter 87 of NRS is hereby amended by adding thereto the provisions set forth as sections 21 and 22 of this act.*

Sec. 21. *1. A registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:*

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. The registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 22. 1. A foreign registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. The foreign registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign registered limited-liability partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign registered limited-liability partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign registered limited-liability partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 23. NRS 87.530 is hereby amended to read as follows:

87.530 1. Except as otherwise provided in subsection 3 [,] *and section 21 of this act,* the Secretary of State shall reinstate the certificate of registration of a registered limited-liability partnership that is revoked pursuant to NRS 87.520 if the registered limited-liability partnership:

(a) Files with the Secretary of State:

(1) The information required by NRS 87.510; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The fee required to be paid pursuant to NRS 87.510;

(2) Any penalty required to be paid pursuant to NRS 87.520; and

(3) A reinstatement fee of $300.

2. When the Secretary of State reinstates the registered limited-liability partnership, he shall issue to the registered limited-liability partnership a certificate of reinstatement if the registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not reinstate the certificate of registration of a registered limited-liability partnership if the certificate was revoked pursuant to the provisions of this chapter at least 5 years before the date of the proposed reinstatement.

Sec. 24. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4 [,] *and section 22 of this act,* the Secretary of State shall reinstate a foreign registered limited-liability partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign registered limited-liability partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 87.541; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87.541 and 87.5425 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign registered limited-liability partnership, he shall issue to the foreign registered limited-liability partnership a certificate of reinstatement if the foreign registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign registered limited-liability partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

Sec. 25. Chapter 88 of NRS is hereby amended by adding thereto the provisions set forth as sections 26, 27 and 28 of this act.

Sec. 26. 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 27. 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 29. NRS 88.410 is hereby amended to read as follows:

88.410 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ *and section 26 of this act,* the Secretary of State shall reinstate any limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and restore to the limited partnership its right to carry on business in this State, and to exercise its privileges and immunities if it:

(a) Files with the Secretary of State:

(1) The list required pursuant to NRS 88.395;

(2) The statement required by NRS 88.397, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88.395 and 88.400 for each year or portion thereof during which the certificate has been revoked;

(2) The fee set forth in NRS 88.397, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the limited partnership, he shall issue to the limited partnership a certificate of reinstatement if the limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88.415.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation occurred only by reason of failure to pay the fees and penalties.

4. If a limited partnership's certificate has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 years, the certificate must not be reinstated.

~~[Sec. 4.]~~ *Sec. 30.* NRS 88.585 is hereby amended to read as follows:

88.585 Except as otherwise provided in NRS 88.609, a foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that ~~[includes without abbreviation]~~ *contains* the words "limited partnership" *or the abbreviation "LP" or "L.P."* and that could be registered by a domestic limited partnership.

Sec. 31. *NRS 88.594 is hereby amended to read as follows:*

88.594 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ *and section 27 of this act,* the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88.591;

(2) The statement required by NRS 88.5915, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88.591 and 88.593 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 88.5915, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88.415.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

Sec. 32. Chapter 88A of NRS is hereby amended by adding thereto the provisions set forth as sections 33 and 34 of this act.

Sec. 33. 1. A business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340.

2. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the ledger, duplicate ledger or statement required to be maintained pursuant to subsection 1 of NRS 88A.340; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

3. If a business trust fails to comply with any requirement pursuant to subsection 2, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of trust.

4. The Secretary of State shall not reinstate or revive a certificate of trust that was revoked or suspended pursuant to subsection 3 unless:

(a) The business trust complies with the requirements of subsection 2; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the business trust.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 34. 1. A foreign business trust shall maintain at its registered office:

(a) A current list of its beneficial owners; or

(b) A statement indicating where such a list is maintained.

2. The foreign business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign business trust fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign business trust to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign business trust to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign business trust complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign business trust to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 35. NRS 88A.650 is hereby amended to read as follows:

88A.650 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ *and section 33 of this act,* the Secretary of State shall reinstate a business trust which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the business trust its right to carry on business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88A.600; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88A.600 and 88A.630 for each year or portion thereof during which its certificate of trust was revoked; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the business trust, he shall issue to the business trust a certificate of reinstatement if the business trust:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88A.900.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the certificate of trust occurred only by reason of the failure to file the list or pay the fees and penalties.

4. If a certificate of business trust has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the certificate must not be reinstated.

Sec. 36. NRS 88A.737 is hereby amended to read as follows:

88A.737 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ *and section 34 of this act,* the Secretary of State shall reinstate a foreign business trust which has forfeited or which forfeits its right to transact business under

the provisions of this chapter and shall restore to the foreign business trust its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88A.732; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88A.732 and 88A.735 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign business trust, he shall issue to the foreign business trust a certificate of reinstatement if the foreign business trust:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88A.900.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign business trust to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

Sec. 37. Chapter 89 of NRS is hereby amended by adding thereto the provisions set forth as sections 38 and 39 of this act.

Sec. 38. 1. A professional corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. The professional corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The professional corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39. 1. A professional association shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member; or

(b) A statement indicating where such a list is maintained.

2. The professional association shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional association to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional association fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the articles of association.

5. The Secretary of State shall not reinstate or revive articles of association that were revoked or suspended pursuant to subsection 4 unless:

(a) The professional association complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the articles of association.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 40. NRS 89.256 is hereby amended to read as follows:

89.256 1. Except as otherwise provided in subsections 3 and 4 ~~[.]~~ *and section 39 of this act,* the Secretary of State shall reinstate any professional

association which has forfeited its right to transact business under the provisions of this chapter and restore the right to carry on business in this State and exercise its privileges and immunities if it:

(a) Files with the Secretary of State:

(1) The list and certification required by NRS 89.250; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 89.250 and 89.252 for each year or portion thereof during which the articles of association have been revoked; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the professional association, he shall issue to the professional association a certificate of reinstatement if the professional association:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the articles of association occurred only by reason of the failure to pay the fees and penalties.

4. If the articles of association of a professional association have been revoked pursuant to the provisions of this chapter and have remained revoked for 10 consecutive years, the articles must not be reinstated.

Sec. 41. *Chapter 90 of NRS is hereby amended by adding thereto a new section to read as follows:*

"Transfer agent" means any person who, for a fee, performs the service of registering the transfer of securities that do not trade on the New York Stock Exchange or the American Stock Exchange or in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ).

Sec. 42. *NRS 90.211 is hereby amended to read as follows:*

90.211 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 90.215 to 90.305, inclusive, *and section 41 of this act* have the meanings ascribed to them in those sections.

Sec. 43. *NRS 90.310 is hereby amended to read as follows:*

90.310 1. It is unlawful for any person to transact business in this State as a broker-dealer or sales representative unless licensed or exempt from licensing under this chapter.

2. It is unlawful for any issuer or any broker-dealer licensed under this chapter to employ or contract with a person as a sales representative within this State unless the sales representative is licensed or exempt from licensing under this chapter.

3. *It is unlawful for any person to transact business in this State as a transfer agent unless licensed or exempt from licensing under this chapter.*

4. It is unlawful for a broker-dealer or an issuer engaged in offering securities in this State to employ or contract with, in connection with any of the broker-dealer's or issuer's activities in this State, any person who is suspended or barred from association with a broker-dealer or investment adviser by the Administrator. A broker-dealer or issuer does not violate this subsection unless he knows or in the exercise of reasonable care should know of the suspension or bar. Upon request from a broker-dealer or issuer, and for good cause shown, the Administrator by order may waive the prohibition of this subsection with respect to a particular person who has been suspended or barred.

~~[4.]~~ *5.* It is unlawful for any person licensed pursuant to this chapter to share, divide or apportion fees with a person who is effecting or attempting to effect purchases or sales of securities and is not licensed pursuant to the provisions of this chapter.

Sec. 44. NRS 90.350 is hereby amended to read as follows:

90.350 1. ~~[An]~~ *Except as otherwise provided in subsection 3, an* applicant for licensing as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the social security number of the applicant and any other information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. ~~[Such]~~ *Except as otherwise provided in subsection 3, such* an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. *An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.*

4. As used in this section, "Central Registration Depository" means the Central Registration Depository of the National Association of Securities Dealers, Inc., or its successor, and the North American Securities Administrators Association or its successor.

Sec. 45. NRS 90.350 is hereby amended to read as follows:

90.350 1. ~~[An]~~ *Except as otherwise provided in subsection 3, an* applicant for licensing as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. ~~[Such]~~ *Except as otherwise provided in subsection 3, such* an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. *An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.*

4. As used in this section, "Central Registration Depository" means the Central Registration Depository of the National Association of Securities Dealers, Inc., or its successor, and the North American Securities Administrators Association or its successor.

Sec. 46. NRS 90.375 is hereby amended to read as follows:

90.375 1. An applicant for the issuance or renewal of a license as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* shall submit to the Administrator the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Administrator.

3. A license as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* may not be issued or renewed by the Administrator if the applicant:

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

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

agency enforcing the order for the repayment of the amount owed pursuant to the order.

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

Sec. 47. *NRS 90.380 is hereby amended to read as follows:*

90.380 1. Unless a proceeding under NRS 90.420 has been instituted, the license of any broker-dealer, sales representative, investment adviser or representative of an investment adviser becomes effective 30 days after an application for licensing has been filed and is complete, including any amendment, if all requirements imposed pursuant to NRS 90.370 and 90.375 have been satisfied. An application or amendment is complete when the applicant has furnished information responsive to each applicable item of the application. The Administrator may authorize an earlier effective date of licensing.

2. The license of a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* is effective until terminated by revocation, suspension, expiration or withdrawal.

3. The license of a sales representative is only effective with respect to transactions effected on behalf of the broker-dealer or issuer for whom the sales representative is licensed.

4. A person shall not at any one time act as a sales representative for more than one broker-dealer or for more than one issuer, unless the Administrator by regulation or order authorizes multiple licenses.

5. If a person licensed as a sales representative terminates association with a broker-dealer or issuer or ceases to be a sales representative, the sales representative and the broker-dealer or issuer on whose behalf the sales representative was acting shall promptly notify the Administrator.

6. The Administrator by regulation may authorize one or more special classifications of licenses as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* to be issued to applicants subject to limitations and conditions on the nature of the activities that may be conducted by persons so licensed.

7. The license of a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* expires if:

(a) The statement required pursuant to NRS 90.375 is not submitted when it is due; or

(b) ~~[The]~~ *Any* annual fee required by NRS 90.360 is not paid when it is due.

8. A license that has expired may be reinstated retroactively if the licensed person:

(a) Submits the statement required pursuant to NRS 90.375; and

(b) Pays ~~[the]~~ *any* fee required by NRS 90.360, plus a fee for reinstatement in the amount of $50,

➥ within 30 days after the date of expiration. If the license is not reinstated within that time, it shall be deemed to have lapsed as of the date of expiration, and the licensed person must thereafter submit a new application for licensing if he desires to be relicensed.

Sec. 48. *NRS 90.380 is hereby amended to read as follows:*

90.380 1. Unless a proceeding under NRS 90.420 has been instituted, the license of any broker-dealer, sales representative, investment adviser or representative of an investment adviser becomes effective 30 days after an application for licensing has been filed and is complete, including any amendment, if all requirements imposed pursuant to NRS 90.370 have been satisfied. An application or amendment is complete when the applicant has furnished information responsive to each applicable item of the application. The Administrator may authorize an earlier effective date of licensing.

2. The license of a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* is effective until terminated by revocation, suspension, expiration or withdrawal.

3. The license of a sales representative is only effective with respect to transactions effected on behalf of the broker-dealer or issuer for whom the sales representative is licensed.

4. A person shall not at any one time act as a sales representative for more than one broker-dealer or for more than one issuer, unless the Administrator by regulation or order authorizes multiple licenses.

5. If a person licensed as a sales representative terminates association with a broker-dealer or issuer or ceases to be a sales representative, the sales representative and the broker-dealer or issuer on whose behalf the sales representative was acting shall promptly notify the Administrator.

6. The Administrator by regulation may authorize one or more special classifications of licenses as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* to be issued to applicants subject to limitations and conditions on the nature of the activities that may be conducted by persons so licensed.

7. The license of a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* expires if ~~[the]~~ *any* annual fee required by NRS 90.360 is not paid when it is due.

8. A license that has expired may be reinstated retroactively if the licensed person pays ~~[the]~~ *any* fee required by NRS 90.360, plus a fee for reinstatement in the amount of $50, within 30 days after the date of expiration. If the license is not reinstated within that time, it shall be deemed to have lapsed as of the date of expiration, and the licensed person must thereafter submit a new application for licensing if he desires to be relicensed.

Sec. 49. *NRS 90.410 is hereby amended to read as follows:*

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~[,]~~ *or any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee,* in order to determine compliance with this chapter. Broker-dealers, sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

3. *The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.*

4. The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 50. NRS 90.420 is hereby amended to read as follows:

90.420 1. The Administrator by order may deny, suspend or revoke any license, fine any licensed person, limit the activities governed by this chapter that an applicant or licensed person may perform in this State, bar an applicant or licensed person from association with a licensed broker-dealer or investment adviser or bar from employment with a licensed broker-dealer or investment adviser a person who is a partner, officer, director, sales representative,
investment adviser or representative of an investment adviser, or a person occupying a similar status or performing a similar function for an applicant or licensed person, if the Administrator finds that the order is in the public interest and that the applicant or licensed person or, in the case of a broker-dealer or investment adviser, any partner, officer, director, sales representative, investment adviser, representative of an investment adviser, or person occupying a similar status or performing similar functions or any person directly or indirectly controlling the broker-dealer or investment adviser ~~[,]~~ *, or any transfer agent or any person directly or indirectly controlling the transfer agent:*

(a) Has filed an application for licensing with the Administrator which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in a material respect or contained a statement that was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;

(b) Has violated or failed to comply with a provision of this chapter as now or formerly in effect or a regulation or order adopted or issued under this chapter;

(c) Is the subject of an adjudication or determination after notice and opportunity for hearing, within the last 5 years by a securities agency or administrator of another state or a court of competent jurisdiction that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act or the securities law of any other state, but only if the acts constituting the violation of that state's law would constitute a violation of this chapter had the acts taken place in this State;

(d) Within the last 10 years has been convicted of a felony or misdemeanor which the Administrator finds:

(1) Involves the purchase or sale of a security, taking a false oath, making a false report, bribery, perjury, burglary, robbery or conspiracy to commit any of the foregoing offenses;

(2) Arises out of the conduct of business as a broker-dealer, investment adviser, depository institution, insurance company or fiduciary; or

(3) Involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion or misappropriation of money or securities or conspiracy to commit any of the foregoing offenses;

(e) Is or has been permanently or temporarily enjoined by any court of competent jurisdiction, unless the order has been vacated, from acting as an investment adviser, representative of an investment adviser, underwriter, broker-dealer or as an affiliated person or employee of an investment company, depository institution or insurance company or from engaging in or continuing any conduct or practice in connection with any of the foregoing activities or in connection with the purchase or sale of a security;

(f) Is or has been the subject of an order of the Administrator, unless the order has been vacated, denying, suspending or revoking his license as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser ~~[,]~~ *or transfer agent;*

(g) Is or has been the subject of any of the following orders which were issued within the last 5 years, unless the order has been vacated:

(1) An order by the securities agency or administrator of another state, Canadian province or territory or by the Securities and Exchange Commission or a comparable regulatory agency of another country, entered after notice and opportunity for hearing, denying, suspending or revoking the person's license as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser ~~[,]~~ *or transfer agent;*

(2) A suspension or expulsion from membership in or association with a member of a self-regulatory organization;

(3) An order of the United States Postal Service relating to fraud;

(4) An order to cease and desist entered after notice and opportunity for hearing by the Administrator, the securities agency or administrator of another state, Canadian province or territory, the Securities and Exchange Commission or a comparable regulatory agency of another country, or the Commodity Futures Trading Commission; or

(5) An order by the Commodity Futures Trading Commission denying, suspending or revoking registration under the Commodity Exchange Act;

(h) Has engaged in unethical or dishonest practices in the securities business;

(i) Is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature, but the Administrator may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser;

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(k) Is determined by the Administrator in compliance with NRS 90.430 not to be qualified on the basis of lack of training, experience and knowledge of the securities business; or

(l) Has failed reasonably to supervise a sales representative, employee or representative of an investment adviser.

2. The Administrator may not institute a proceeding on the basis of a fact or transaction known to the director when the license became effective unless the proceeding is instituted within 90 days after issuance of the license.

3. If the Administrator finds that an applicant or licensed person is no longer in existence or has ceased to do business as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser *or transfer agent* or is adjudicated mentally incompetent or subjected to the control of a committee, conservator or guardian or cannot be located after reasonable search, the Administrator may by order deny the application or revoke the license.

Sec. 51. *NRS 90.435 is hereby amended to read as follows:*

90.435 1. If the Administrator receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment adviser ~~[,]~~ *or transfer agent,* the Administrator shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Administrator receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Administrator shall reinstate a license as a broker-dealer, sales representative, investment adviser , ~~[or]~~ representative of an investment

adviser *or transfer agent* that has been suspended by a district court pursuant to NRS 425.540 if the Administrator receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

~~[Sec. 5.]~~ *Sec. 52.* NRS 92A.205 is hereby amended to read as follows:

92A.205 1. After a plan of conversion is approved as required by this chapter, if the resulting entity is a domestic entity, the constituent entity shall deliver to the Secretary of State for filing:

(a) Articles of conversion setting forth:

(1) The name and jurisdiction of organization of the constituent entity and the resulting entity; and

(2) That a plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.

(b) The charter document of the domestic resulting entity required by the applicable provisions of chapter 78, 78A, ~~[82,]~~ 86, 88, 88A or 89 of NRS.

(c) A certificate of acceptance of appointment of a resident agent for the resulting entity which is signed by the resident agent.

2. After a plan of conversion is approved as required by this chapter, if the resulting entity is a foreign entity, the constituent entity shall deliver to the Secretary of State for filing articles of conversion setting forth:

(a) The name and jurisdiction of organization of the constituent entity and the resulting entity;

(b) That a plan of conversion has been adopted by the constituent entity in compliance with the laws of this State; and

(c) The address of the resulting entity where copies of process may be sent by the Secretary of State.

3. If the entire plan of conversion is not set forth in the articles of conversion, the filing party must include in the articles of conversion a statement that the complete signed plan of conversion is on file at the registered office or principal place of business of the resulting entity or, if the resulting entity is a domestic limited partnership, the office described in paragraph (a) of subsection 1 of NRS 88.330.

4. If the conversion takes effect on a later date specified in the articles of conversion pursuant to NRS 92A.240, the charter document to be filed with the Secretary of State pursuant to paragraph (b) of subsection 1 must state the name and the jurisdiction of the constituent entity and that the existence of the resulting entity does not begin until the later date.

5. Any records filed with the Secretary of State pursuant to this section must be accompanied by the fees required pursuant to this title for filing the charter document.

~~[Sec. 6.]~~ *Sec. 53.* (Deleted by amendment.)

~~[Sec. 7.]~~ *Sec. 54.* NRS 225.084 is hereby amended to read as follows:

225.084 1. A person shall not willfully file, promote the filing of, or cause to be filed, or attempt or conspire to file, promote the filing of, or cause to be filed, any record in the Office of the Secretary of State if the person has actual knowledge that the record:

(a) Is forged or fraudulently altered;

(b) Contains a false statement of material fact; or

(c) Is being filed in bad faith or for the purpose of harassing or defrauding any person.

2. Any person who violates this section is liable in a civil action brought pursuant to this section for:

(a) Actual damages caused by each separate violation of this section, or $10,000 for each separate violation of this section, whichever is greater;

(b) All costs of bringing and maintaining the action, including investigative expenses and fees for expert witnesses;

(c) Reasonable attorney's fees; and

(d) Any punitive damages that the facts may warrant.

3. A civil action may be brought pursuant to this section by:

(a) Any person who is damaged by a violation of this section, including, without limitation, any person who is damaged as the result of an action taken in reliance on a record filed in violation of this section; or

(b) The Attorney General, in the name of the State of Nevada, if the matter is referred to the Attorney General by the Secretary of State and if the Attorney General, after due inquiry, determines that a civil action should be brought pursuant to this section. Any money recovered by the Attorney General pursuant to this paragraph, after deducting all costs and expenses incurred by the Attorney General and the Secretary of State to investigate and act upon the violation, must be deposited in the State General Fund.

4. For the purposes of this section, each filing of a single record that constitutes a violation of this section shall be deemed to be a separate violation.

5. The rights, remedies and penalties provided pursuant to this section are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 239.330.

6. *The Secretary of State may adopt regulations prescribing procedures for correcting any record filed in violation of this section.*

7. As used in this section, "record" means information that is:

(a) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(b) Filed or offered for filing by a person pursuant to any provision of title 7 of NRS or Article 9 of the Uniform Commercial Code.

~~[Sec. 8.]~~ *Sec. 55.* Assembly Bill No. 26 of this session is hereby amended by adding thereto a new section to be designated as sec. 6.5, following sec. 6, to read as follows:

Sec. 6.5. The amendatory provisions of this act do not apply to a:

1. Corporation that files its articles of incorporation with the Secretary of State;

2. Foreign corporation that files the records required pursuant to subsection 1 of NRS 80.010 or NRS 80.110 with the Secretary of State;

3. Nonprofit corporation that files its articles of incorporation with the Secretary of State;

4. Limited-liability company that files its articles of organization with the Secretary of State;

5. Registered limited-liability partnership that files its certificate of registration with the Secretary of State; or

6. Limited partnership that files its certificate of limited partnership with the Secretary of State,

➥ before the effective date of this act.

Sec. 56. Senate Bill No. 72 of this session is hereby amended by adding thereto a new section to be designated as sec. 40.5, immediately following sec. 40, to read as follows:

Sec. 40.5. 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 57. Section 62 of Senate Bill No. 72 of this session is hereby amended to read as follows:

Sec. 62. *1. Except as otherwise provided in subsections 3 and 4 and section 40.5 of this act, the Secretary of State shall reinstate any limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and restore to the limited partnership its right to carry on business in this State, and to exercise its privileges and immunities if it:*

(a) Files with the Secretary of State:

(1) The list required pursuant to section 58 of this act;

(2) The statement required by section 59 of this act, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in sections 58 and 60 of this act for each year or portion thereof during which the certificate has been revoked;

(2) The fee set forth in section 59 of this act, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the limited partnership, he shall issue to the limited partnership a certificate of reinstatement if the limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to section 63 of this act.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation occurred only by reason of failure to pay the fees and penalties.

4. If a limited partnership's certificate has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 years, the certificate must not be reinstated.

5. If a limited partnership's certificate is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the limited partnership's status as a limited partnership continues as if the revocation had never occurred.

Sec. 58. *Senate Bill No. 72 of this session is hereby amended by adding thereto a new section to be designated as sec. 115.5, immediately following sec. 115, to read as follows:*

Sec. 115.5. 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 59. *Section 118 of Senate Bill No. 72 of this session is hereby amended to read as follows:*

Sec. 118. *1. Except as otherwise provided in subsections 3 and 4 and section 115.5 of this act, the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact*

business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by section 112 of this act;

(2) The statement required by section 113 of this act, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in sections 112 and 116 of this act for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in section 113 of this act, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to section 63 of this act.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. If the right of a foreign limited partnership to transact business in this State is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the foreign limited partnership's status as a foreign limited partnership continues as if the revocation had never occurred.

Sec. 60. Senate Bill No. 72 of this session is hereby amended by adding thereto a new section to be designated as sec. 126.5, immediately following sec. 126, to read as follows:

Sec. 126.5. 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

~~[Sec. 9.]~~ *Sec. 61.* 1. This section and ~~[section 8]~~ *sections 55 to 60, inclusive,* of this act become effective upon passage and approval.

2. Sections 1 to ~~[7,]~~ *44,* inclusive, *46, 47 and 49 to 54, inclusive,* of this act become effective on October 1, 2007.

3. Sections 44, 46, 47 and 51 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ *are repealed by the Congress of the United States.*

4. Sections 45 and 48 of this act become effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children, ➥ *are repealed by the Congress of the United States.*

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 462.

Bill read second time.

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

Amendment No. 808.

"SUMMARY—Revises provisions relating to the sale or lease of real property by governmental entities. (BDR 26-901)"

"AN ACT relating to real property; excepting certain sales or leases of real property by governmental entities from requirements that the entities conduct appraisals of the real property before the sale or lease of the real property and that the entities sell or lease the real property by auction; authorizing a governmental entity to hold a public hearing in lieu of having a second appraisal conducted before the sale or lease of real property; requiring persons requesting to purchase real property from governmental entities by auction to deposit a certain amount of money to pay the costs incurred by the entity in acting upon the application; providing that a political subdivision may convey real property to the State without charge under certain circumstances; *revising provisions governing certain rentals or leases at county airports;* making various other changes relating to the sale and lease of real property by governmental entities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Land Registrar, the board of county commissioners of each county, and the governing body of each incorporated city to obtain two independent appraisals of any real property when selling or leasing the property and to sell or lease the property upon sealed bids followed by oral offers. (NRS 244.2795, 244.281, 244.283, 268.059, 268.062, 321.007, 321.335) Sections 1, 3, 4, 6 and 7 of this bill amend that requirement to require that the State Land Registrar, each board of county commissioners and each city governing body, when selling or leasing real property: (1) obtain two independent appraisals of the property; or (2) obtain one independent appraisal of the property and hold a public hearing on the matter of the fair market value of the property. Sections 1-4 and 6-8 of this bill except property sold or leased to a public utility for a public purpose and property sold or leased to the State or another governmental entity from the

requirement for an appraisal and to be sold or leased upon sealed bids followed by oral offers. Sections 1 and 2 of this bill except property leased pursuant to a contract entered into pursuant to chapter 333 of NRS from those requirements.

Existing law provides for the board of county commissioners of each county and the governing body of each incorporated city to sell real property by auction. (NRS 244.282, 268.062) Sections 5 and 8 of this bill require a person requesting to purchase real property from a county or city by auction to deposit with the board of commissioners or governing body an amount of money sufficient to pay the costs of the board of commissioners or governing body in acting upon the request.

Existing law authorizes the State to lease state land to certain nonprofit organizations or educational institutions for a reduced charge. (NRS 322.065) Sections 2.5 and 5.5 of this bill provide similar authority to the boards of county commissioners of counties and to the governing bodies of cities.

Existing law provides that a political subdivision may convey real property to another political subdivision or an Indian tribe without charge if the property is to be used for a public purpose. (NRS 277.053) Section 9.3 of this bill provides that a political subdivision may also convey real property to the State or an agency of the State without charge if the property is to be used for a public purpose.

Under existing law, the sale or lease of any portion of the property of a municipal airport is required to be made by public auction. (NRS 496.080) Section 9.7 of this bill provides that, in a county whose population is less than 50,000 (currently counties other than Clark and Washoe Counties, and Carson City), leases of property at a county airport are not subject to requirements relating to appraisal and public auction. *Section 10 of this bill exempts a board of county commissioners of a county whose population is 50,000 or more (currently Clark and Washoe Counties and Carson City) from the requirement of conducting a public auction for the rental or lease of space for the parking or storage of aircraft at an airport owned by the county but requires that such a rental or lease be made for fair market value, as determined by an independent appraisal.*

Sections 1, 3, 4 and 6-9 of this bill provide additionally that if land or real property is sold or leased in violation of the provisions thereof, the sale or lease is void and any change to an ordinance or law governing the zoning or use of that land or real property is void if the change occurs within the 5-year period after the void sale or lease.

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

Section 1. NRS 321.007 is hereby amended to read as follows:

321.007 1. Except as otherwise provided in subsection 5, NRS 322.063, 322.065 or 322.075, except as otherwise required by federal law *, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or*

leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:

(a) ~~[Obtain]~~ *Except as otherwise provided in this paragraph, obtain* two independent appraisals of the land before selling or leasing it. *If the Interim Finance Committee grants its approval after discussion of the fair market value of the land, one independent appraisal of the land is sufficient before selling or leasing it.* The *appraisal or* appraisals *, as applicable,* must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.

(b) Notwithstanding the provisions of chapter 333 of NRS, select the *one independent appraiser or* two independent appraisers *, as applicable,* from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the State Land Registrar as to the qualifications of an appraiser is conclusive.

2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property.

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesman when offering such a property for lease.

6. If land is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the land is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 2. NRS 321.335 is hereby amended to read as follows:

321.335 1. Except as otherwise provided in NRS 321.125, 321.510, 322.063, 322.065 or 322.075, except as otherwise required by federal law *,*

except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, he may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.

3. Before offering any land for sale or lease, the State Land Registrar shall ~~[cause it to be appraised by competent appraisers selected pursuant to]~~ *comply with the provisions of* NRS 321.007.

4. After ~~[receipt of the report of the appraisers,]~~ *complying with the provisions of NRS 321.007,* the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as he deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.

5. The notice must contain:

(a) A description of the land to be sold or leased;

(b) A statement of the terms of sale or lease;

(c) A statement that the land will be sold pursuant to subsection 6; and

(d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.

6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all

bids and offers. Before finally accepting any written bid, the State Land Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.

7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if he deems the bid or offer to be:

(a) Contrary to the public interest.

(b) For a lesser amount than is reasonable for the land involved.

(c) On lands which it may be more beneficial for the State to reserve.

(d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.

8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 321.320 and 321.330.

9. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of lease specified in the notice of lease, the State Land Registrar shall enter into a lease agreement with the person submitting the accepted bid or oral offer pursuant to the terms of lease specified in the notice of lease.

10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the land, the State Land Registrar must *, as applicable* obtain a new appraisal *or new appraisals* of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

Sec. 2.5. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners of a county may lease real property to a nonprofit organization that:

(a) Is recognized as exempt under section 501(c)(3) of the Internal Revenue Code;

(b) Is affiliated by contract or other written agreement with the county; and

(c) Provides to residents of the county or to other persons a service that the county would otherwise be required to expend money to provide,

➥ *under such terms and for such consideration as the board determines reasonable based upon the costs and benefits to the county and the recommendation of any county officers who may be involved in approving the lease.*

2. To lease real property pursuant to this section, the board of county commissioners must approve the lease and establish the recommended amount of rent to be received for the real property. The board shall render a decision on an application to lease real property pursuant to this section within 60 days after it receives the application.

3. In determining the amount of rent for the lease of real property pursuant to this section, consideration must be given to:

(a) The amount the lessee is able to pay;

(b) Whether the real property will be used by the lessee to perform a service of value to members of the general public;

(c) Whether the service to be performed on the real property will be of assistance to any agency of the county; and

(d) The expenses, if any, that the county is likely to incur to lease real property pursuant to this section in comparison to other potential uses of the real property.

4. The board of county commissioners *may waive any fee for the consideration of an application submitted pursuant to this section.*

Sec. 3. NRS 244.2795 is hereby amended to read as follows:

244.2795 1. Except as otherwise provided in NRS 244.189, 244.276, 244.279, 244.2825, 244.284, 244.287, 244.290 *, section 2.5 of this act* ~~[and]~~ *, NRS* 278.479 to 278.4965, inclusive, *and subsection 3 of NRS 496.080,* except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less *, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity* and except for the sale or lease of real property

larger than 1 acre which is approved by the voters at a primary or general election or special election, the board of county commissioners shall, when offering any real property for sale or lease:

(a) ~~[Obtain]~~ *Except as otherwise provided in this paragraph, obtain* two independent appraisals of the real property before selling or leasing it. *If the board of county commissioners holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it.* The *appraisal or* appraisals *, as applicable,* must have been prepared not more than 6 months before the date on which the real property is offered for sale or lease.

(b) Select the *one independent appraiser or* two independent appraisers *, as applicable,* from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the board of county commissioners as to the qualifications of the appraiser is conclusive.

2. The board of county commissioners shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the board. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income that may constitute a conflict of interest and any relationship with the real property owner or the owner of an adjoining real property.

4. An appraiser shall not perform an appraisal on any real property for sale or lease by the board of county commissioners if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

5. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 4. NRS 244.281 is hereby amended to read as follows:

244.281 Except as otherwise provided in this section and NRS 244.189, 244.276, 244.279, 244.2815, 244.2825, 244.284, 244.287, 244.290, *section 2.5 of this act* ~~*[, and]*~~ *, NRS* 278.479 to 278.4965, inclusive, *and subsection 3 of NRS 496.080,* except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real

property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less *, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose* and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election:

1. When a board of county commissioners has determined by resolution that the sale or lease of any real property owned by the county will be for purposes other than to establish, align, realign, change, vacate or otherwise adjust any street, alley, avenue or other thoroughfare, or portion thereof, or flood control facility within the county and will be in the best interest of the county, it may:

(a) Sell the property in the manner prescribed for the sale of real property in NRS 244.282.

(b) Lease the property in the manner prescribed for the lease of real property in NRS 244.283.

2. Before the board of county commissioners may sell or lease any real property as provided in subsection 1, it shall:

(a) Post copies of the resolution described in subsection 1 in three public places in the county; and

(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(2) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➥ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. ~~[If]~~ *Except as otherwise provided in this subsection, if* the board of county commissioners by its resolution further finds that the property to be sold or leased is worth more than $1,000, the board shall appoint two or more disinterested, competent real estate appraisers pursuant to NRS 244.2795 to appraise the property . ~~[and, except]~~ *If the board of county commissioners holds a public hearing on the matter of the fair market value of the property, one disinterested, competent appraisal of the property is sufficient before selling or leasing it. Except* for property acquired pursuant to NRS 371.047, *the board of county commissioners* shall not sell or lease it for less than the highest appraised value.

4. If the property is appraised at $1,000 or more, the board of county commissioners may:

(a) Lease the property; or

(b) Sell the property either for cash or for not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust, bearing such interest and upon such further terms as the board of county commissioners may specify.

5. A board of county commissioners may sell or lease any real property owned by the county without complying with the provisions of NRS 244.282 or 244.283 to:

(a) A person who owns real property located adjacent to the real property to be sold or leased if the board has determined by resolution that:

(1) The real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property for sale or lease; and

(2) The sale will be in the best interest of the county.

(b) ~~[Another]~~ *The State or another* governmental entity if:

(1) The sale or lease restricts the use of the real property to a public use; and

(2) The board adopts a resolution finding that the sale or lease will be in the best interest of the county.

6. A board of county commissioners that disposes of real property pursuant to subsection 4 is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

7. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the board of county commissioners may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the board of county commissioners must obtain a new appraisal of the real property pursuant to the provisions of NRS 244.2795 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the board of county commissioners may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the

first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

8. *If real property is sold or leased in violation of the provisions of this section:*

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

9. As used in this section, "flood control facility" has the meaning ascribed to it in NRS 244.276.

Sec. 5. NRS 244.282 is hereby amended to read as follows:

244.282 1. Except as otherwise provided in NRS 244.279, before ordering the sale at auction of any real property the board shall, in open meeting by a majority vote of the members, adopt a resolution declaring its intention to sell the property at auction. The resolution must:

(a) Describe the property proposed to be sold in such a manner as to identify it.

(b) Specify the minimum price and the terms upon which it will be sold.

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the board to be held at its regular place of meeting, at which sealed bids will be received and considered.

2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) Causing to be published at least once a week for 3 successive weeks before the meeting, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold at auction in such a manner as to identify it;

(2) The minimum price of the real property proposed to be sold at auction; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➥ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. At the time and place fixed in the resolution for the meeting of the board, all sealed bids which have been received must, in public session, be opened, examined and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell and which are made by responsible bidders, the bid which is

the highest must be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

4. Before accepting any written bid, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the board may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

6. The board may, either at the same session or at any adjourned session of the same meeting held within the 10 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale.

7. Any resolution of acceptance of any bid made by the board must authorize and direct the chairman to execute a deed and to deliver it upon performance and compliance by the purchaser with all the terms or conditions of his contract which are to be performed concurrently therewith.

8. All money received from sales of real property must be deposited forthwith with the county treasurer to be credited to the county general fund.

9. The board may require any person requesting that real property be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the board in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

10. If real property is sold in violation of the provisions of this section:

(a) The sale is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale.

Sec. 5.5. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body may lease real property to a nonprofit organization that:

(a) Is recognized as exempt under section 501(c)(3) of the Internal Revenue Code;

(b) Is affiliated by contract or other written agreement with the city; and

(c) Provides to residents of the city or to other persons a service that the city would otherwise be required to expend money to provide,

➥ *under such terms and for such consideration as the governing body determines reasonable based upon the costs and benefits to the city and the*

recommendation of any city officers who may be involved in approving the lease.

2. To lease real property pursuant to this section, the governing body must approve the lease and establish the recommended amount of rent to be received for the real property. The governing body shall render a decision on an application to lease real property pursuant to this section within 60 days after it receives the application.

3. In determining the amount of rent for the lease of real property pursuant to this section, consideration must be given to:

(a) The amount the lessee is able to pay;

(b) Whether the real property will be used by the lessee to perform a service of value to members of the general public;

(c) Whether the service to be performed on the real property will be of assistance to any agency of the city; and

(d) The expenses, if any, that the city is likely to incur to lease real property pursuant to this section in comparison to other potential uses of the real property.

4. The governing body may waive any fee for the consideration of an application submitted pursuant to this section.

Sec. 6. NRS 268.059 is hereby amended to read as follows:

268.059 1. Except as otherwise provided in NRS 268.048 to 268.058, inclusive, *section 5.5 of this act* and *NRS* 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less *, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity* and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election, the governing body shall, when offering any real property for sale or lease:

(a) ~~[Obtain]~~ *Except as otherwise provided in this paragraph, obtain* two independent appraisals of the real property before selling or leasing it. *If the governing body holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it.* The *appraisal or* appraisals *, as applicable,* must be based on the zoning of the real property as set forth in the master plan for the city and must have been prepared not more than 6 months before the date on which real property is offered for sale or lease.

(b) Select the *one independent appraiser or* two independent appraisers *, as applicable,* from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the governing body as to the qualifications of the appraiser is conclusive.

2. The governing body shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the governing body. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the property owner or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any real property offered for sale or lease by the governing body if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

5. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 7. NRS 268.061 is hereby amended to read as follows:

268.061 Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, *section 5.5 of this act* and *NRS* 278.479 to 278.4965, inclusive, except as otherwise provided by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less *, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose* and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election:

1. If a governing body has determined by resolution that the sale or lease of any real property owned by the city will be in the best interest of the city, it may sell or lease the real property in the manner prescribed for the sale or lease of real property in NRS 268.062.

2. Before the governing body may sell or lease any real property as provided in subsection 1, it shall:

(a) Post copies of the resolution described in subsection 1 in three public places in the city; and

(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(2) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➥ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. If the governing body by its resolution finds additionally that the real property to be sold is worth more than $1,000, the ~~[board]~~ *governing body* shall *, as applicable,* conduct an appraisal *or appraisals* pursuant to NRS 268.059 to determine the value of the real property . ~~[and, except]~~ *Except* for real property acquired pursuant to NRS 371.047, *the governing body* shall not sell or lease it for less than the highest appraised value.

4. If the real property is appraised at $1,000 or more, the governing body may:

(a) Lease the real property; or

(b) Sell the real property for:

(1) Cash; or

(2) Not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust bearing such interest and upon such further terms as the governing body may specify.

5. A governing body may sell or lease any real property owned by the city without complying with the provisions of this section and NRS 268.059 and 268.062 to:

(a) A person who owns real property located adjacent to the real property to be sold or leased if the governing body has determined by resolution that:

(1) The real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; and

(2) The sale or lease will be in the best interest of the city.

(b) ~~[Another]~~ *The State or another* governmental entity if:

(1) The sale or lease restricts the use of the real property to a public use; and

(2) The governing body adopts a resolution finding that the sale or lease will be in the best interest of the city.

6. A governing body that disposes of real property pursuant to subsection 5 is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

7. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the governing body may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the governing body must obtain a new appraisal of the real property pursuant to the provisions of NRS 268.059 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the governing body may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

8. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 8. NRS 268.062 is hereby amended to read as follows:

268.062 1. Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, *section 5.5 of this act* ~~[and]~~ *, NRS* 278.479 to 278.4965, inclusive, *and subsection 3 of NRS 496.080,* except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less *, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose* and except for the sale or lease of real

property larger than 1 acre which is approved by the voters at a primary or general election, the governing body shall, in open meeting by a majority vote of the members and before ordering the sale or lease at auction of any real property, adopt a resolution declaring its intention to sell or lease the property at auction. The resolution must:

(a) Describe the property proposed to be sold or leased in such a manner as to identify it;

(b) Specify the minimum price and the terms upon which the property will be sold or leased; and

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the governing body to be held at its regular place of meeting, at which sealed bids will be received and considered.

2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) Causing to be published at least once a week for 3 successive weeks before the meeting, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased at auction in such a manner as to identify it;

(2) The minimum price of the real property proposed to be sold or leased at auction; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➥ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. At the time and place fixed in the resolution for the meeting of the ~~[board,]~~ *governing body,* all sealed bids which have been received must, in public session, be opened, examined and declared by the governing body. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or lease and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the governing body rejects all bids.

4. Before accepting any written bid, the governing body shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy or lease the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.

6. The governing body may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

7. Any resolution of acceptance of any bid made by the governing body must authorize and direct the chairman to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessor with all the terms or conditions of his contract which are to be performed concurrently therewith.

8. The governing body may require any person requesting that real property be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the governing body in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

9. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 9. NRS 268.063 is hereby amended to read as follows:

268.063 1. A governing body may sell, lease or otherwise dispose of real property for the purposes of redevelopment or economic development:

(a) Without first offering the real property to the public; and

(b) For less than fair market value of the real property.

2. Before a governing body may sell, lease or otherwise dispose of real property pursuant to this section, the governing body must:

(a) ~~[Obtain]~~ *As applicable, obtain* an appraisal *or appraisals* of the property pursuant to NRS 268.059; and

(b) Adopt a resolution finding that it is in the best interests of the public to sell, lease or otherwise dispose of the property:

(1) Without offering the property to the public; and

(2) For less than fair market value of the real property.

3. *If real property is sold, leased or otherwise disposed of in violation of the provisions of this section:*

(a) The sale, lease or other disposal is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale, lease or other disposal.

4. As used in this section:

(a) "Economic development" means:

(1) The establishment of new commercial enterprises or facilities within the city;

(2) The support, retention or expansion of existing commercial enterprises or facilities within the city;

(3) The establishment, retention or expansion of public, quasi-public or other facilities or operations within the city;

(4) The establishment of residential housing needed to support the establishment of new commercial enterprises or facilities or the expansion of existing commercial enterprises or facilities; or

(5) Any combination of the activities described in subparagraphs (1) to (4), inclusive,

➥ to create and retain opportunities for employment for the residents of the city.

(b) "Redevelopment" has the meaning ascribed to it in NRS 279.408.

Sec. 9.3. NRS 277.053 is hereby amended to read as follows:

277.053 A governing body of a political subdivision may convey real property to *the State, any agency of the State,* another political subdivision or an Indian tribe without charge if the property is to be used for a public purpose.

Sec. 9.5. NRS 371.047 is hereby amended to read as follows:

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.045, or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, *and section 2.5 of this act,* dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:

(a) Abutter's rights of light, view or air.

(b) Easements of access to and from abutting land.

(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.045.

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:

(a) Constitutes a taking of all or any part of the property, or interest therein;

(b) Lowers the value of the property; or

(c) Constitutes a nuisance.

5. As used in this section:

(a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.

(b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.

(c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 9.7. NRS 495.040 is hereby amended to read as follows:

495.040 1. The boards of county commissioners of the respective counties of this state may lease real and personal property of their county for use and occupancy as airports, airport facilities or airport service, to whom and upon such conditions and terms as they deem proper, for a term or terms not exceeding 99 years.

2. Before entering into any agreement for the lease of property as set forth in subsection 1, the board of county commissioners shall publish notice of its intention in a newspaper of general circulation published within the county at least once a week for 21 days or three times during a period of 10 days. If there is not a newspaper of general circulation within the county, the board shall post a notice of its intention in a public place at least once a week for 30 days. The notice must specify that a regular meeting is to be held, at which meeting any interested person may appear. No such lease or agreement may be entered into by the board until after the notice has been given and a meeting held as provided in this subsection.

3. The provisions of NRS 244.281 and 496.080 do not apply to any lease entered into pursuant to this section by a board of county commissioners in a county whose population is less than 50,000.

Sec. 10. *NRS 496.080 is hereby amended to read as follows:*

496.080 1. Except as otherwise provided in subsection 2 or as may be limited by the terms and conditions of any grant, loan or agreement pursuant to NRS 496.180, every municipality may, by sale, lease or otherwise, dispose of any airport, air navigation facility, or other property, or portion thereof or interest therein, acquired pursuant to this chapter.

2. The disposal by sale, lease or otherwise must be:

(a) ~~[Made]~~ *Except as otherwise provided in subsection 3, made* by public auction; and

(b) In accordance with the laws of this State, or provisions of the charter of the municipality, governing the disposition of other property of the municipality, except that in the case of disposal to another municipality or agency of the State or Federal Government for aeronautical purposes incident thereto, the sale, lease or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may deem in the best interest of the municipality, and except as otherwise provided in subsections 3, 4 and 5 of NRS 496.090.

3. A board of county commissioners of a county whose population is 50,000 or more may rent or lease to a person, or renew the rental or lease to a person of, a space for the parking or storage of aircraft, including, without limitation, a hangar, on the grounds of a municipal airport that is owned or operated by the county without conducting a public auction and at a price at least equal to the fair market rental or lease value of the space based on an independent appraisal conducted within 6 months before the rental or lease.

~~[Sec. 10.]~~ *Sec. 11.* This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy, Carlton and Titus.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 508.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 999.

"SUMMARY—Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)"

"AN ACT relating to the Advisory Commission on Sentencing; *changing the name of the Commission;* revising the membership and duties of the Commission; authorizing the Commission to issue subpoenas; requiring the Commission to hold meetings at least once every 3 months; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this bill authorizes the Advisory Commission on Sentencing or a member acting on behalf of the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.]~~

Section 2 of this bill *changes the name of the Advisory Commission on Sentencing to the Advisory Commission on the Administration of Justice and* adds: (1) a sitting or retired justice of the Nevada Supreme Court; (2) a representative of an organization that advocates on behalf of inmates; (3) a

representative of the Nevada Sheriffs' and Chiefs' Association to the Commission; and (4) a member of the State Board of Parole Commissioners and removes the member appointed by the Nevada Association of Counties. Section 2 also removes the Attorney General as the Chairman of the Commission. Instead, members are required to elect a Chairman at the first meeting of each odd-numbered year. The Commission is further required to meet at least quarterly.

Section 1 of this bill authorizes the Commission to issue subpoenas to compel the attendance of witnesses and the production of books, records, documents and other papers and testimony.

Section 3 of this bill revises the duties of the ~~[Advisory]~~ Commission ~~[on Sentencing]~~ by requiring the Commission to evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners and to consider whether it is feasible and advisable to establish an oversight or advisory board to perform various functions. Section 3 also requires the Commission to evaluate the effectiveness of specialty court programs in this State and to evaluate the policies and practices concerning presentence investigations and reports of the Division of Parole and Probation of the Department of Public Safety. *Section 3 also requires the Commission to evaluate, review and comment upon issues relating to juvenile justice.*

Section 4 of this bill makes an appropriation to the ~~[Advisory]~~ Commission ~~[on Sentencing]~~ to enter into a contract with a consultant to assist the Commission in carrying out its duties.

Section 5 of this bill provides that incumbent members of the Commission may serve out the remainder of their respective terms. Section 5 requires that new positions and vacancies in the Commission be filled in a designated manner. Section 5 also mandates that the Commission meet and elect a Chairman by July 31, 2007.

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

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

1. To carry out its powers and duties pursuant to this section NRS 176.0121 to 176.0129, inclusive, ~~[and]~~ the Commission, or any member thereof acting on behalf of the Commission with a concurrence of a majority of the members of the Commission, may issue subpoenas to compel the attendance of witnesses and the production of books, records, documents or other papers and testimony.

2. If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Commission or a member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 1.5. *NRS 176.0121 is hereby amended to read as follows:*

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, "Commission" means the Advisory Commission on ~~[Sentencing.]~~ *the Administration of Justice.*

Sec. 2. NRS 176.0123 is hereby amended to read as follows:

176.0123 1. The Advisory Commission on ~~[Sentencing]~~ *the Administration of Justice* is hereby created. The Commission consists of:

(a) One member who is a district judge, appointed by the governing body of the Nevada District Judges Association;

(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) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;

~~[(c)]~~ *(d)* 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;

~~[(d)]~~ *(e)* One member who is a public defender, appointed by the governing body of the State Bar of Nevada;

~~[(e)]~~ *(f)* One member who is a representative of a law enforcement agency, appointed by the Governor;

~~[(f)]~~ *(g)* One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

~~[(g)]~~ *(h)* 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;

~~[(h)]~~ *(i) One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;*

(j) One member who is a ~~[county commissioner,]~~ *representative of the Nevada Sheriffs' and Chiefs' Association,* appointed by ~~[the governing body of]~~ the Nevada *Sheriffs' and Chiefs'* Association *;* ~~[of Counties;]~~

~~[(i)]~~ *(k) One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;*

(l) The Director of the Department of Corrections;

~~[(j)]~~ *(m)* Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

~~[(k)]~~ *(n)* Two members who are Assemblymen, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

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

2. The Attorney General is an ex officio voting member of the Commission . ~~[and shall serve as the Chairman of the Commission.]~~

3. 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 Commission must be filled in the same manner as the original appointment ~~[.]~~ *not later than 30 days after the vacancy occurs.*

4. The Legislators who are members of the 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 Commission.

5. ~~*[The members appointed pursuant to paragraphs (a) to (k), inclusive, of subsection 1 must be appointed not later than 60 days after the appointment*~~

~~*of the Legislators who are appointed pursuant to paragraphs (m) and (n) of subsection 1.*~~

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

~~*[7.]*~~ *6. The Commission shall meet at least once every 3 months and may meet at such further times as deemed necessary by the Chairman.*

~~*[8.]*~~ *7. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.*

~~*[9.]*~~ *8.* While engaged in the business of the Commission, to the extent of legislative appropriation, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~[6.]~~ ~~*[10.]*~~ *9.* To the extent of legislative appropriation, the Attorney General shall provide the Commission with such staff as is necessary to carry out the duties of the Commission.

Sec. 3. NRS 176.0125 is hereby amended to read as follows:

176.0125 The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, *sentencing recommendations,* mandatory and minimum sentencing, *mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances,* structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. *Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:*

(a) Policies relating to parole;

(b) Regulatory procedures and policies of the State Board of Parole Commissioners;

(c) Policies for the operation of the Department of Corrections;

(d) Budgetary issues; and

(e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

(a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and

(b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

8. Compile and develop statistical information concerning sentencing in this State.

~~[5.]~~ ~~*[8.]*~~ *9.* For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes ~~[in the structure of sentencing]~~ *pertaining to the administration of justice* in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the *Director of the Legislative Counsel Bureau for distribution to the* Legislature not later than ~~[10 days after the commencement of the session.]~~ *September 1 of each even-numbered year.*

Sec. 3.5. NRS 179A.290 is hereby amended to read as follows:

179A.290 1. The Director of the Department shall establish within the Central Repository a program to compile and analyze data concerning offenders who commit sexual offenses. The program must be designed to:

(a) Provide statistical data relating to the recidivism of offenders who commit sexual offenses; and

(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to:

(1) Provide statistical data relating to the recidivism of juvenile sex offenders after they become adults; and

(2) Assess the effectiveness of programs for the treatment of juvenile sex offenders.

2. The Division of Parole and Probation and the Department of Corrections shall assist the Director of the Department in obtaining data and in carrying out the program.

3. The Director of the Department shall report the statistical data and findings from the program to:

(a) The Legislature at the beginning of each regular session.

(b) The Advisory Commission on ~~[Sentencing]~~ *the Administration of Justice* on or before January 31 of each even-numbered year.

4. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the Advisory Commission on ~~[Sentencing]~~ *the Administration of Justice* the sum of $50,000 so that the Commission may enter into a contract with a qualified, independent consultant to assist the Commission in carrying out its duties.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, 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 18, 2009, 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 18, 2009.

Sec. 5. *1.* The Attorney General shall continue to serve as Chairman of the Advisory Commission on ~~[Sentencing]~~ *the Administration of Justice* until the members elect a Chairman*.* ~~[at the first regular meeting of the Commission that is held after July 1, 2007.]~~ The Commission shall meet not later than ~~[120 days after]~~ July ~~[1,]~~ *31,* 2007, and shall elect a Chairman at that meeting.

2. Notwithstanding the amendatory provisions of this act, a member of the Commission, other than the member who is a county commissioner, who is serving a term on July 1, 2007, is entitled to serve out the remainder of the term to which he was appointed.

3. Not later than July 15, 2007:

(a) The Chief Justice of the Supreme Court shall appoint the member described in paragraph (b) of subsection 1 of NRS 176.0123, as amended by this act;

(b) The Governor shall appoint the member described in paragraph (i) of subsection 1 of NRS 176.0123, as amended by this act;

(c) The Nevada Sheriffs' and Chiefs' Association shall appoint the member described in paragraph (j) of subsection 1 of NRS 176.0123, as amended by this act; and

(d) The State Board of Parole Commissioners shall appoint the member described in paragraph (k) of subsection 1 of NRS 176.0123, as amended by this act.

4. Any vacancy on the Commission that exists on July 1, 2007, must be filled not later than July 15, 2007, in the manner described in NRS 176.0123, as amended by this act.

Sec. 6. This act becomes effective on July 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senators Amodei and Coffin.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 513.

Bill read second time.

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

Amendment No. 884.

"SUMMARY—Revises provisions relating to general improvement districts. (BDR 25-1380)"

"AN ACT relating to general improvement districts; ~~[allowing the board of trustees of a general improvement district to be created or reorganized as either a five-member or seven-member board under certain circumstances;]~~ *requiring the creation of certain general improvement districts in certain counties within the sphere of influence of certain cities;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law authorizes each board of county commissioners to create general improvement districts within the county and to appoint five persons to serve as the first board of trustees of each district. (NRS 318.080) Sections1 and 2 of this bill authorize a board of county commissioners, in the alternative, to appoint seven persons to such a board of trustees, but provide additionally that no general improvement district which is created or reorganized on or after October 1, 2007, may have a board of trustees that consists of seven members unless the board of county commissioners of the county in which the district is located also consists of seven members. Sections 3-5 of this bill amend provisions regarding general improvement districts to account for boards of trustees with either five or seven members.~~

~~Existing law authorizes qualified electors of a general improvement district to petition the board of county commissioners for the creation of election areas within the district, each area to be represented by one member of the board of trustees of the district. Under existing law, election areas within a general improvement district may be altered or abolished in the same manner~~

~~in which they are created. (NRS 318.0952) Section 6 of this bill clarifies that the petition process may be used to reorganize as well as to create election areas. Section 6 requires the election areas specified in the petition to provide, to the extent practicable, proportional representation for the residents of each election area and requires each board of county commissioners, when determining whether the creation of the election areas is desirable, to consider whether the areas provide such proportional representation. Section 6 also requires the petition to specify which two of the election areas will be represented by two members of the board of trustees instead of one, which occurs when the board consists of seven members and there are five election areas, and provides for the election of trustees from areas that will be represented by two members of the board.~~

~~Existing law, under certain circumstances, allows the board of county commissioners of a county to serve ex officio as the board of trustees of a general improvement district. However, existing law prohibits such an arrangement if the district exercises other than certain enumerated powers. (NRS 318.0953) Section 7 of this bill provides that, in a county of any size, the board of county commissioners of the county may serve ex officio as the board of trustees of a general improvement district organized on or after October 1, 2007, regardless of which basic powers the district exercises.~~

~~Under existing law, a general improvement district is authorized to borrow money and issue short-term indicia of debt upon the affirmative vote of four trustees. (NRS 318.280) Section 8 of this bill changes the voting requirement to a majority plus one additional trustee, thus preserving the voting requirement for five-member boards, and similarly requiring seven-member boards to approve such actions by greater than a simple majority.]~~

Existing law authorizes each board of county commissioners to create general improvement districts within the county. (Chapter 318 of NRS) This bill requires the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to create one such district of at least 5,000 acres within the sphere of influence of a city whose population is 100,000 or more (currently Reno) and one such district of at least 2,000 acres within the sphere of influence of a city whose population is 60,000 or more but less than 100,000 (currently Sparks).

Section 2 of this bill provides the prerequisites for creating such a general improvement district. Section 3 of this bill provides for the governing body of the city in whose sphere of influence the district is located to initially serve as the board of trustees of the district. After establishing a budget and certain accounting, auditing and management standards for the district and upon the district containing at least two qualified electors, the governing body of the city is required to appoint five members to serve as the board of trustees. After the initial terms of these appointed members, the board of trustees will consist of two members elected by the qualified electors of the district and three members appointed by the governing body of the city.

Section 4 of this bill provides a procedure for adding basic powers to the general improvement district that were not provided in its formation and authorizes territory contiguous to the district to be added to the district. Section 5 of this bill provides for the merger of the general improvement district with the city within whose sphere of influence the district is located when all the territory of the district has been annexed by the city.

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

Delete existing sections 1 through 8 of this bill and replace with the following new sections 1 through 40:

Section 1. Chapter 318 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. 1. Subject to the provisions of subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 shall create:

(a) Within the sphere of influence of an incorporated city in the county whose population is 100,000 or more, one district comprising at least 5,000 acres; and

(b) Within the sphere of influence of an incorporated city in the county whose population is 60,000 or more but less than 100,000, one district comprising at least 2,000 acres.

2. A board of county commissioners shall adopt an ordinance creating a district pursuant to this section if:

(a) Each owner of property located within the proposed district:

(1) Files with the board of county commissioners a request for the creation of such a district; and

(2) Applies for annexation to the city within whose sphere of influence the property is located;

(b) The governing body of the city within whose sphere of influence the proposed district is located has made the following findings:

(1) Public convenience and necessity require the creation of the proposed district;

(2) The creation of the proposed district is economically sound and feasible; and

(3) The service plan for the proposed district:

(I) Meets the requirements of subsection 1 of NRS 308.030;

(II) Does not meet any of the criteria for disapproval of a service plan enumerated in NRS 308.060; and

(III) Provides for adequate police protection for the proposed district and for the funding of such police protection; and

(c) The board of county commissioners has had an opportunity to review and make advisory comments on the findings of the governing body of the city described in paragraph (b).

3. The adoption of the ordinance creating a district pursuant to this section finally and conclusively establishes the regular organization of the

district against all persons, which district thereafter is a governmental subdivision of the State of Nevada, a body corporate and politic and a quasi-municipal corporation.

4. Within 30 days after the effective date of the ordinance creating the district, the county clerk shall file a copy of the ordinance in his office and shall cause to be filed an additional copy of the ordinance in the Office of the Secretary of State, which filings must be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 3. 1. After adopting an ordinance creating a district pursuant to section 2 of this act, and before appointing the first board of trustees for the district pursuant to subsection 3, the governing body of the city within whose sphere of influence the district is located is ex officio the board of trustees for the district and has the authority provided to and shall undertake the duties imposed on a board of trustees by this chapter, including, without limitation, the duties and powers pursuant to NRS 318.0953, 318.09533 and 318.09535 with respect to a board of county commissioners acting ex officio as the board of trustees of the district.

2. While acting as the board of trustees of the district, the governing body shall establish:

(a) Accounting practices and procedures to be used by the district;

(b) Auditing practices and procedures to be used by the district;

(c) A budget for the district;

(d) Management standards for the district; and

(e) The compensation and bonds required of the trustees.

3. After the governing body has performed the duties required by subsection 2 and upon the district containing at least two qualified electors, the governing body shall:

(a) Appoint two qualified electors of the district to serve as members of the board of trustees of the district and shall specify therein the terms of office to the first Monday in January next following the respective election dates provided in subsection 4 of NRS 318.095; and

(b) Appoint three qualified electors of the district or of the city, each of whom may be a member of the governing body, to serve as members of the board of trustees of the district.

4. The members of the board of trustees shall qualify by filing with the county clerk their oaths of office and corporate surety bonds.

5. After the expiration of the terms of office of the members of the board appointed pursuant to paragraph (a) of subsection 3, the board of trustees of a district created pursuant to section 2 of this act shall consist of two members elected pursuant to subsection 4 of NRS 318.095 and three members, who must be qualified electors of either the district or the city and may be a member of the governing body of the city, appointed by the governing body of the city.

6. The members of the board of trustees of a district created pursuant to section 2 of this act who are appointed by the governing body of a city may be removed from the board by a vote of a majority of the members of the governing body of the city.

7. The members of the board of trustees of a district created pursuant to section 2 of this act who are elected may be removed in the manner set forth in NRS 318.0955.

Sec. 4. 1. The board of trustees of a district created pursuant to section 2 of this act has the authority provided to and shall undertake the duties imposed on a board of trustees by this chapter.

2. The board of trustees of a district created pursuant to section 2 of this act may elect to add basic powers not provided in its formation, in which event the board shall cause proceedings to be had by the governing body of the city in whose sphere of influence the district is located. The board shall obtain in connection with each such additional basic power a modified service plan for the district in a manner like that provided for an initial service plan required for the organization of a district in the Special District Control Law.

3. Contiguous territory may be added to a district created pursuant to section 2 of this act in the manner set forth in NRS 318.258 pursuant to a petition filed by the owner of the territory if the owner of the territory has applied for annexation to the city within whose sphere of influence the district is located and the territory is within that sphere of influence. As used in this subsection, "contiguous territory" means real property that abuts a boundary of a district created pursuant to section 2 of this act.

Sec. 5. 1. If all the territory of a district created pursuant to section 2 of this act is annexed pursuant to NRS 268.610 to 268.670, inclusive, the board of county commissioners shall adopt an ordinance providing for the merger of the district and the annexing city and fixing a time and place for a hearing on the merger, to be held not later than 90 days after all the territory of the district has been annexed.

2. The county clerk shall thereupon certify a copy of the ordinance to the board of trustees of the district and shall mail written notice to all owners of real property within the district, containing the following:

(a) The adoption of the ordinance; and

(b) The time and place for the hearing on the merger.

3. After the hearing on the merger and upon determining that all outstanding indebtedness and bonds of all kinds of the district have been paid or will be assumed by the resulting merged unit of government, the board of county commissioners shall adopt a final ordinance merging the district and the city.

4. Except as otherwise provided in subsections 1, 2 and 3, a district created pursuant to section 2 of this act may not be merged, consolidated or dissolved unless the board of trustees of the district consents by a majority vote to the merger, consolidation or dissolution.

Sec. 6. *1. The provisions of sections 2 to 6, inclusive, of this act must not be construed to:*

(a) Preclude any districts, cities or counties from entering into any interlocal or other agreements regarding services to be provided to a district;

(b) Eliminate the duties of any county or other entity to provide services which it is obligated to provide within its boundaries or by agreement; or

(c) Impair any authority granted to a city pursuant to NRS 278.010 to 278.630, inclusive, over the territory within the sphere of influence of the city.

2. In the event of conflict between the provisions of sections 2 to 6, inclusive, of this act and the provisions of this chapter and chapter 308 of NRS, the provisions of sections 2 to 6, inclusive, of this act control.

Sec. 7. *In the case of a district created pursuant to section 2 of this act, wholly or in part for the purpose of furnishing police protection, the board may:*

1. Acquire police protection equipment and acquire, construct or improve police protection facilities and make improvements necessary and incidental thereto; and

2. Coordinate police protection activities with any local law enforcement agency located within the district.

Sec. 8. *In the case of a district created pursuant to section 2 of this act, wholly or in part for furnishing snow removal services, the board may:*

1. Acquire and maintain any equipment and property necessary for those services;

2. Hire and supervise personnel necessary to carry out the functions of the district; and

3. Fix rates or charges for the use of the services furnished by the district and change those rates or charges as it considers necessary.

Sec. 9. *NRS 318.020 is hereby amended to read as follows:*

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

1. "Acquisition," "acquire" and "acquiring" each means acquisition, extension, alteration, reconstruction, repair or other improvement by purchase, construction, installation, reconstruction, condemnation, lease, rent, gift, grant, bequest, devise, contract or other acquisition, or any combination thereof.

2. "Board of trustees" and "board" alone each means the board of trustees of a district.

3. "FM radio" means a system of radio broadcasting by means of frequency modulation.

4. "General improvement district" and "district" alone each means any general improvement district organized or, in the case of organizational provisions, proposed to be organized, pursuant to this chapter.

5. "Mail" means a single mailing first class or its equivalent, postage prepaid, by deposit in the United States mails, at least 15 days before the designated time or event.

6. "Project" and "improvement" each means any structure, facility, undertaking or system which a district is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property, including, but not limited to, land, elements and fixtures thereon, property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right therein, legal or equitable, including terms for years, or any combination thereof.

7. "Publication" means publication once in a newspaper of general circulation in the district at least 15 days before the designated time or event.

8. "Qualified elector" means a person who has registered to vote in district elections.

9. "Special assessment district" means any local public improvement district organized within a general improvement district by the board of trustees of such general improvement district pursuant to this chapter.

10. *"Sphere of influence" has the meaning ascribed to it in NRS 268.623.*

11. "Trustees" means the members of a board.

Sec. 10. *NRS 318.050 is hereby amended to read as follows:*

318.050 1. Except as otherwise provided in this chapter, the board of county commissioners of any county within this State is hereby vested with jurisdiction, power and authority to create districts within the county which it serves.

2. No member of a board of county commissioners*, governing body of a city* or board of trustees shall be disqualified to perform any duty imposed by this chapter by reason of ownership of property within any proposed district.

3. If the boundaries of a proposed district include territory within two or more counties, the board of county commissioners of the county in which is located the larger or largest proportion of the area of the proposed district has the jurisdiction, power and authority to create the district, to broaden its basic powers and otherwise to supervise the district as provided in this chapter.

Sec. 11. *NRS 318.055 is hereby amended to read as follows:*

318.055 *Except as otherwise provided in section 2 of this act:*

1. The formation of a district may be initiated by:

(a) A resolution adopted by the board of county commissioners; or

(b) A petition proposed by any owner of property to be located in the district.

2. After adoption of the resolution or receipt of the petition the organization of the district must be initiated by the adoption of an ordinance by the board of county commissioners, which is in this chapter sometimes designated the "initiating ordinance." No initiating ordinance may be adopted by the board of county commissioners if the proposed district includes any real property within 7 miles from the boundary of an incorporated city or unincorporated town unless:

(a) All members of the board of county commissioners unanimously vote for the organization of a district with boundaries which contravene this 7-mile limitation;

(b) A petition for annexation to or inclusion within the incorporated city or unincorporated town of that property has first been filed with the governing body of the incorporated city or unincorporated town pursuant to law and the governing body thereof has refused to annex or include that property and has entered the fact of that refusal in its minutes;

(c) No part of the area within the district is eligible for inclusion in a petition for such an annexation; or

(d) The governing body of the incorporated city or the town board of the unincorporated town, by resolution, consents to the formation of the district.

3. Except as is otherwise provided in this chapter, a district may be entirely within or entirely without, or partly within and partly without, one or more municipalities or counties, and the district may consist of noncontiguous tracts or parcels of property.

4. The initiating ordinance must set forth:

(a) The name of the proposed district, consisting of a chosen name preceding the word "District," or, if the district is authorized to exercise more than one basic power, the words "General Improvement District." If a district's name as provided in the organizational proceedings does not include the words "General Improvement," and if subsequently any additional basic power is granted to the district pursuant to NRS 318.077, the board of county commissioners may redesignate the district with a chosen name preceding the words "General Improvement District."

(b) A statement of the basic power or basic powers for which the district is proposed to be created , ~~[(]~~ for instance, by way of illustration, "for paving, curb and gutters, sidewalks, storm drainage and sanitary sewer improvements within the district . ~~[").]~~ The basic power or basic powers stated in the initiating ordinance must be one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter designated therein.

(c) A statement that the ordinance creating the district will be based on the board's finding:

(1) That public convenience and necessity require the creation of the district;

(2) That the creation of the district is economically sound and feasible;

(3) That the service plan for the district conforms to subsection 1 of NRS 308.030; and

(4) That the service plan for the district does not contravene any of the criteria enumerated in subsection 1 of NRS 308.060.

(d) A general description of the boundaries of the district or the territory to be included therein, with such certainty as to enable an owner of property to determine whether his property is within the district.

(e) The place and time for the hearing on the creation of the district.

Sec. 12. *NRS 318.060 is hereby amended to read as follows:*

318.060 After such initiating ordinance has been adopted by the board of county commissioners ~~[,]~~ *pursuant to NRS 318.055,* the county clerk shall mail written notice to all property owners within the proposed district of the intention of the board of county commissioners to establish such district, which notice shall set forth the name, statement of purposes, general description and time and place of hearing.

Sec. 13. *NRS 318.065 is hereby amended to read as follows:*

318.065 *Except as otherwise provided in section 2 of this act:*

1. Any person who owns property which is located within the district may, on or before the date fixed, protest against the establishment of such district, in writing, which protest shall be filed with the county clerk of such county.

2. If, at or before the time fixed in the initiating ordinance and notice, written protest is filed, signed by a majority of the owners of property within such proposed district, the district shall not be established.

3. If any written protests are filed and the board of county commissioners determines that the protests so filed represent less than a majority of the owners of property within the district, the board of county commissioners, in its discretion but subject to the limitation provided by NRS 318.070, may proceed with the creation of the district. If the board of county commissioners does so proceed, the ordinance of the board of county commissioners creating the district, for which provision is made in this chapter, shall contain a recital of the number of protests filed and such recital is binding and conclusive for all purposes.

Sec. 14. *NRS 318.070 is hereby amended to read as follows:*

318.070 *Except as otherwise provided in section 2 of this act:*

1. At the place, date and hour specified for the hearing in the notice or at any subsequent time to which the hearing may be adjourned, the board of county commissioners shall give full consideration to all protests which may have been filed and shall hear all persons desiring to be heard and shall thereafter adopt an ordinance either creating the district or determining that it shall not be created.

2. If the board of county commissioners determines at the hearing that the proponents of such proposed district have failed to show that creation of the district is required by public convenience and necessity or have failed to show that the creation of such district is economically sound and feasible, or both, it shall adopt an ordinance determining that it shall not be created.

3. Any ordinance creating a district may contain such changes as may be considered by the board of county commissioners to be equitable and necessary.

Sec. 15. *NRS 318.075 is hereby amended to read as follows:*

318.075 *Except as otherwise provided in section 2 of this act:*

1. Except as otherwise provided in subsection 2, the adoption of the ordinance creating the district shall finally and conclusively establish the

regular organization of the district against all persons, which district shall thenceforth be a governmental subdivision of the State of Nevada, a body corporate and politic and a quasi-municipal corporation.

2. Within 30 days immediately following the effective date of such ordinance any person who has filed a written protest, as provided in NRS 318.065, shall have the right to commence an action in any court of competent jurisdiction to set aside such determination. Thereafter all actions or suits attacking the regularity, validity and correctness of that ordinance and all proceedings, determinations and instruments taken, adopted or made prior to such ordinance's final passage, shall be perpetually barred.

3. Within 30 days after the effective date of the ordinance creating the district, the county clerk shall file a copy of the ordinance in his office and shall cause to be filed an additional copy of the ordinance in the Office of the Secretary of State, which filings shall be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 16. *NRS 318.077 is hereby amended to read as follows:*

318.077 ~~[The]~~ *Except as otherwise provided in section 4 of this act, the* board may elect to add basic powers not provided in its formation, in which event the board shall cause proceedings to be had by the board of county commissioners similar, as nearly as may be, to those provided for the formation of the district, and with like effect. The board shall obtain in connection with each such additional basic power a modified service plan for the district in a manner like that provided for an initial service plan required for the organization of a district in the Special District Control Law.

Sec. 17. *NRS 318.080 is hereby amended to read as follows:*

318.080 *Except as otherwise provided in section 3 of this act:*

1. After adopting an ordinance creating a district and before appointing the first board of trustees for the district, the board of county commissioners is, ex officio, the board of trustees for the district.

2. While acting as the board of trustees, the board of county commissioners shall establish:

(a) Accounting practices and procedures for the district;

(b) Auditing practices and procedures to be used by the district;

(c) A budget for the district; and

(d) Management standards for the district.

3. Except as otherwise provided in NRS 318.0953 and 318.09533, after the board of county commissioners has performed the duties required by subsection 2, it shall appoint five persons to serve as the first board of trustees of the district and shall specify therein the terms of office to the first Monday in January next following the respective election dates provided in NRS 318.095. Except as otherwise provided in subsection 5, these persons must be qualified electors of the district.

4. The members of the board of trustees shall qualify by filing with the county clerk their oaths of office and corporate surety bonds, at the expense

of the district, the bonds to be in an amount not more than $10,000 each, the form and exact amount thereof to be approved and determined, respectively, by the board of county commissioners, conditioned for the faithful performance of their duties as trustees. The board of county commissioners may from time to time, upon good cause shown, increase or decrease the amount of the bond.

5. The board of county commissioners may appoint as one of the five initial trustees as provided by subsection 1 the district attorney for the county or a deputy district attorney on his staff. Such appointee need not be a qualified elector of the district, but no such attorney is qualified for appointment to fill any vacancy on the board pursuant to NRS 318.090 or qualified as a candidate for election to the board at any biennial election pursuant to NRS 318.095 unless he is a qualified elector of the district.

6. The board of county commissioners of the county vested with jurisdiction pursuant to NRS 318.050 may remove any trustee serving on an appointed or elected board of trustees for cause shown, on petition, hearing and notice thereof by publication and by mail addressed to the trustee.

Sec. 18. *NRS 318.085 is hereby amended to read as follows:*

318.085 Except as otherwise provided in NRS 318.0953 and 318.09533:

1. After taking oaths and filing bonds, the board shall choose one of its members as chairman of the board and president of the district, and shall elect a secretary and a treasurer of the board and of the district, who may or may not be members of the board. The secretary and the treasurer may be one person.

2. The board shall adopt a seal.

3. The secretary shall keep audio recordings or transcripts of all meetings and, in a well-bound book, a record of all of the board's proceedings, minutes of all meetings, any certificates, contracts, bonds given by employees and all corporate acts. Except as otherwise provided in NRS 241.035, the book, audio recordings, transcripts and records must be open to inspection of all owners of real property in the district as well as to all other interested persons.

4. The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the district in permanent records. He shall file with the county clerk, at the expense of the district, a corporate surety bond in an amount not more than $50,000, the form and exact amount thereof to be approved and determined, respectively, by the board of county commissioners, conditioned for the faithful performance of the duties of his office. Any other officer or trustee who actually receives or disburses money of the district shall furnish a bond as provided in this subsection. The board of county commissioners may, upon good cause shown, increase or decrease the amount of that bond.

5. Except as otherwise provided in this subsection ~~[,]~~ *and section 3 of this act,* each member of a board of trustees of a district organized or reorganized pursuant to this chapter may receive as compensation for his

service not more than $6,000 per year. Each member of a board of trustees of a district that is organized or reorganized pursuant to this chapter and which is granted the powers set forth in NRS 318.140, 318.142 and 318.144 may receive as compensation for his service not more than $9,000 per year. The compensation of the members of a board is payable monthly, if the budget is adequate and a majority of the members of the board vote in favor of such compensation, but no member of the board may receive any other compensation for his service to the district as an employee or otherwise. Each member of the board must receive the same amount of compensation. If a majority of the members of the board vote in favor of an increase in the compensation of the trustees, the increase may not become effective until January 1 of the calendar year immediately following the next biennial election of the district as set forth in NRS 318.095.

Sec. 19. *NRS 318.090 is hereby amended to read as follows:*

318.090 Except as otherwise provided in NRS 318.0953 and 318.09533:

1. The board shall, by resolution, designate the place where the office or principal place of the district is to be located, which must be within the corporate limits of the district, and which may be changed by resolution of the board. Copies of all those resolutions must be filed with the county clerk or clerks of the county or counties wherein the district is located within 5 days after their adoption. The official records and files of the district must be kept at that office and must be open to public inspection as provided in NRS 239.010.

2. The board of trustees shall meet regularly at least once each year, and at such other times at the office or principal place of the district as provided in the bylaws.

3. Special meetings may be held on notice to each member of the board as often as, and at such places within the district as, the needs of the district require.

4. Three members of the board constitute a quorum at any meeting.

5. A vacancy on the board must be filled by a qualified elector of the district chosen by the remaining members of the board, the appointee to act until a successor in office qualifies as provided in NRS 318.080 *or section 3 of this act* on or after the first Monday in January next following the next biennial election, held in accordance with NRS 318.095, at which election the vacancy must be filled by election if the term of office extends beyond that first Monday in January. Nominations of qualified electors of the district as candidates to fill unexpired terms of 2 years may be made the same as nominations for regular terms of 4 years, as provided in NRS 318.095. If the board fails, neglects or refuses to fill any vacancy within 30 days after the vacancy occurs, the board of county commissioners shall fill that vacancy.

6. Each term of office of 4 years terminates on the first Monday in January next following the general election at which a successor in office is elected, as provided in NRS 318.095. The successor's term of office commences then or as soon thereafter as the successor qualifies as provided

in NRS 318.080 ~~[,]~~ *or section 3 of this act,* subject to the provisions in this chapter for initial appointments to a board, for appointments to fill vacancies of unexpired terms, and for the reorganizations of districts under this chapter which were organized under other chapters of NRS.

Sec. 20. NRS 318.095 is hereby amended to read as follows:

318.095 Except as otherwise provided in NRS 318.0953:

1. There must be held simultaneously with the first general election in the county after the creation of the district and simultaneously with every general election thereafter an election to be known as the biennial election of the district. The election must be conducted under the supervision of the county clerk or registrar of voters. A district shall reimburse the county clerk or registrar of voters for the costs he incurred in conducting the election for the district.

2. The office of trustee is a nonpartisan office. The general election laws of this State govern the candidacy, nominations and election of a member of the board. The names of the candidates for trustee of a district may be placed on the ballot for the primary or general election.

3. ~~[At]~~ *Except as otherwise provided in subsection 4, at* the first biennial election in any district organized or reorganized and operating under this chapter, and each fourth year thereafter, there must be elected by the qualified electors of the district two qualified electors as members of the board to serve for terms of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected three qualified electors as members of the board to serve for terms of 4 years.

4. *At the first biennial election in any district created pursuant to section 2 of this act, and each fourth year thereafter, there must be elected by the qualified electors of the district one qualified elector as a member of the board to serve for a term of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected one qualified elector as a member of the board to serve for a term of 4 years.*

5. The secretary of the district shall give notice of election by publication, and shall arrange such other details in connection therewith as the county clerk or registrar of voters may direct.

~~[5.]~~ *6.* Any new member of the board must qualify in the same manner as members of the first board qualify.

Sec. 21. NRS 318.0951 is hereby amended to read as follows:

318.0951 Except as otherwise provided in NRS 318.0952 or 318.0953:

1. Each trustee elected at any biennial election must be chosen by a plurality of the qualified electors of the district voting on the candidates for the vacancies to be filled.

2. *If there is one regular term which ends on the first Monday in January next following the biennial election, the qualified elector receiving the highest number of votes must be elected.* If there are two regular terms which end on the first Monday in January next following the biennial election, the two qualified electors receiving the highest and next highest number of votes

must be elected. If there are three regular terms so ending, the three qualified electors receiving the highest, next highest and third highest number of votes must be elected.

3. If there is a vacancy in an unexpired regular term to be filled at the biennial election, as provided in subsection 5 of NRS 318.090, the candidate who receives the highest number of votes, after there are chosen the successful candidates to fill the vacancies in expired regular terms as provided in subsection 2, must be elected.

Sec. 22. *NRS 318.0952 is hereby amended to read as follows:*

318.0952 Except as otherwise provided in NRS 318.0953 ~~[.]~~ *, and except for districts created pursuant to section 2 of this act:*

1. Trustees may be elected in the alternate manner provided in this section from election areas within the district.

2. Within 30 days before May 1 of any year in which a general election is to be held in the State, 10 percent or more of the qualified electors of the district voting at the next preceding biennial election of the district may file a written petition with the board of county commissioners of the county vested with jurisdiction under NRS 318.050 praying for the creation of election areas within the district in the manner provided in this section. The petition must specify with particularity the five areas proposed to be created. The description of the proposed election areas need not be given by metes and bounds or by legal subdivisions, but must be sufficient to enable a person to ascertain what territory is proposed to be included within a particular area. The signatures to the petition need not all be appended to one paper, but each signer must add to his name his place of residence, giving the street and number whenever practicable. One of the signers of each paper shall take an oath, before a person competent to administer oaths, that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

3. Immediately after the receipt of the petition, the board of county commissioners shall fix a date for a public hearing to be held during the month of May, and shall give notice thereof by publication at least once in a newspaper published in the county, or if no such newspaper is published therein then in a newspaper published in the State of Nevada and having a general circulation in the county. The costs of publication of that notice are a proper charge against the district fund.

4. If, as a result of the public hearing, the board of county commissioners finds that the creation of election areas within the district is desirable, the board of county commissioners shall, by resolution regularly adopted before June 1, divide the district into the areas specified in the petition, designate them by number and define their boundaries. The territory comprising each election area must be contiguous. One trustee must be elected from each election area by a majority of the qualified electors voting on the candidates for any vacancy for that area as provided in subsection 7.

5. Before June 1 and immediately following the adoption of the resolution creating election areas within a district, the clerk of the board of county commissioners shall transmit a certified copy of the resolution to the secretary of the district.

6. Upon the creation of election areas within a district, the terms of office of all trustees then in office expire on the first Monday of January thereafter next following a biennial election. At the biennial election held following the creation of election areas within a district, district trustees to represent the odd-numbered election areas must be elected for terms of 4 years and district trustees to represent the even-numbered election areas must be elected for terms of 2 years. Thereafter, at each biennial election, the offices of trustees must be filled for terms of 4 years in the order in which the terms of office expire.

7. Candidates for election as a trustee representing any election area must be elected only by those qualified electors of the district residing in that area. No qualified elector may vote in more than one election area at any one time.

8. A candidate for the office of trustee of a district in which election areas have been created must be a qualified elector of the district and must be a resident of the election area which he seeks to represent.

9. Election areas may be altered or abolished in the same manner as provided in this section for the creation of election areas and the election of trustees therefor.

Sec. 23. *NRS 318.0953 is hereby amended to read as follows:*

318.0953 *Except as otherwise provided in section 2 of this act:*

1. In every county whose population is 400,000 or more, the board of county commissioners is, and in counties whose population is less than 400,000 the board of county commissioners may be, ex officio, the board of trustees of each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for sewerage as provided in NRS 318.140, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which is authorized, in addition to those basic powers, to exercise any one or more other basic powers designated in this chapter, except as provided in subsections 2 and 4.

2. The board of county commissioners of any county may be, at its option, ex officio, the board of trustees of any district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for water as provided in NRS 318.144, or, furnishing both facilities for water and facilities for sewerage as provided in NRS 318.144 and 318.140, respectively, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which:

(a) Is authorized, in addition to its basic powers, to exercise any one or more other basic powers designated in this chapter.

(b) Is organized or reorganized pursuant to this chapter, the boundaries of which include all or a portion of any incorporated city or all or a portion of a district for water created by special law.

3. In every county whose population is less than 100,000, the board of county commissioners may be, ex officio, the board of trustees of each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing emergency medical services as provided in NRS 318.1185, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.

4. A board of county commissioners may exercise the options provided in subsections 1, 2 and 3 by providing in the ordinance creating the district or in an ordinance thereafter adopted at any time that the board is, ex officio, the board of trustees of the district. The board of county commissioners shall, in the former case, be the board of trustees of the district when the ordinance creating the district becomes effective, or in the latter case, become the board of the district 30 days after the effective date of the ordinance adopted after the creation of the district. In the latter case within the 30-day period the county clerk shall promptly cause a copy of the ordinance to be:

(a) Filed in his office;

(b) Transmitted to the secretary of the district; and

(c) Filed in the Office of the Secretary of State without the payment of any fee and otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 24. *NRS 318.0955 is hereby amended to read as follows:*

318.0955 ~~[Members]~~ *Except as otherwise provided in section 3 of this act, members* of the board of trustees are subject to recall from office pursuant to the provisions of the Constitution and statutes of this State.

Sec. 25. *NRS 318.098 is hereby amended to read as follows:*

318.098 1. The board of trustees of any district may request, in writing, assistance from any elected or appointed officer of the county in which the district is located ~~.~~ *, or, if the district was created pursuant to section 2 of this act, the city within whose sphere of influence the district is located.*

2. The officer shall furnish the requested assistance, after an agreement has been reached concerning the amount of money which the board of trustees shall pay for the assistance. The cost shall not be more than the actual additional expense necessitated by the request.

3. The board shall, by a resolution spread upon its minutes, order payment made in the amount, in each case, which was agreed upon by the board of trustees and the officer furnishing the assistance.

Sec. 26. *NRS 318.116 is hereby amended to read as follows:*

318.116 Any one, all or any combination of the following basic powers may be granted to a district in proceedings for its organization, or its reorganization pursuant to NRS 318.077 and all provisions in this chapter supplemental thereto, or as may be otherwise provided by statute:

1. Furnishing electric light and power, as provided in NRS 318.117;

2. Extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or Fasciola hepatica, as provided in NRS 318.118;

3. Furnishing facilities or services for public cemeteries, as provided in NRS 318.119;

4. Furnishing facilities for swimming pools, as provided in NRS 318.1191;

5. Furnishing facilities for television, as provided in NRS 318.1192;

6. Furnishing facilities for FM radio, as provided in NRS 318.1187;

7. Furnishing streets and alleys, as provided in NRS 318.120;

8. Furnishing curbs, gutters and sidewalks, as provided in NRS 318.125;

9. Furnishing sidewalks, as provided in NRS 318.130;

10. Furnishing facilities for storm drainage or flood control, as provided in NRS 318.135;

11. Furnishing sanitary facilities for sewerage, as provided in NRS 318.140;

12. Furnishing facilities for lighting streets, as provided in NRS 318.141;

13. Furnishing facilities for the collection and disposal of garbage and refuse, as provided in NRS 318.142;

14. Furnishing recreational facilities, as provided in NRS 318.143;

15. Furnishing facilities for water, as provided in NRS 318.144;

16. Furnishing fencing, as provided in NRS 318.1195;

17. Furnishing facilities for protection from fire, as provided in NRS 318.1181;

18. Furnishing energy for space heating, as provided in NRS 318.1175;

19. Furnishing emergency medical services, as provided in NRS 318.1185;

20. Control and eradication of noxious weeds, as provided in chapter 555 of NRS; ~~[and]~~

21. Establishing, controlling, managing and operating an area or zone for the preservation of one or more species or subspecies of wildlife that has been declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq., as provided in NRS 318.1177 ~~[.]~~ ;

22. For a district created pursuant to section 2 of this act, furnishing police protection, as provided in section 7 of this act; and

23. For a district created pursuant to section 2 of this act, furnishing snow removal services, as provided in section 8 of this act.

Sec. 27. NRS 318.143 is hereby amended to read as follows:

318.143 1. Subject to the provisions of subsection 2, the board may acquire, construct, reconstruct, improve, extend and better lands, works, systems and facilities for recreation.

2. ~~[If]~~ *Except as otherwise provided in section 2 of this act, if* the proposed recreational facilities are situated within 7 miles from the boundary of an incorporated city or unincorporated town, and if the county in which

the proposed recreational facilities are situated has adopted a recreation plan pursuant to NRS 278.010 to 278.630, inclusive, the authority conferred by subsection 1 may be exercised only in conformity with such plan.

3. Such recreational facilities may include without limitation exposition buildings, museums, skating rinks, other type rinks, fieldhouses, sports arenas, bowling alleys, swimming pools, stadiums, golf courses, tennis courts, squash courts, other courts, ball fields, other athletic fields, tracks, playgrounds, bowling greens, ball parks, public parks, promenades, beaches, marinas, levees, piers, docks, wharves, boat basins, boathouses, harborages, anchorages, gymnasiums, appurtenant shower, locker and other bathhouse facilities, amusement halls, dance halls, concert halls, theaters, auditoriums, aviaries, aquariums, zoological gardens, biological gardens and vivariums , ~~[(]~~ or any combination thereof ~~.[).]~~

Sec. 28. *NRS 318.215 is hereby amended to read as follows:*

318.215 1. When a district *other than a district created pursuant to section 2 of this act* abuts a city or town, the board shall have the power to convey to such city or town, at the discretion of the district and with the consent of the governing authority thereof, all of the property of such district upon the condition that such city or town:

(a) Will operate and maintain such property, regardless of whether the area comprising the district is annexed to the municipality; and

(b) May assume all of the indebtedness of such district upon such conditions as the county or town and the governing body of the district may agree.

2. Upon such conveyance and assumption of indebtedness the district shall be dissolved and a certificate to such effect shall be signed by the clerical officer of the city or town and filed with the Secretary of State and county clerk of any county in which the ordinance creating the district is filed.

Sec. 29. *NRS 318.257 is hereby amended to read as follows:*

318.257 *Except for a district created pursuant to section 2 of this act:*

1. A fee owner of real property situate in the district, or the fee owners of any real properties which are contiguous to each other and which constitute a portion of the district may file with the board a petition praying that such lands be excluded and taken from the district.

2. Petitions shall:

(a) Describe the property which the petitioners desire to have excluded.

(b) State that the property is not capable of being served with facilities of the district, or would not be benefited by remaining in the district or by any future improvement it might make.

(c) Be acknowledged in the same manner and form as required in case of a conveyance of land.

(d) Be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings.

3. The secretary of the board shall cause a notice of filing of such petition to be published, which notice shall:

(a) State the filing of such petition.

(b) State the names of the petitioners.

(c) Describe the property mentioned in the petition.

(d) State the prayer of the petitioners.

(e) Notify all persons interested to appear at the office of the board at the time named in the notice, showing cause in writing, if any they have, why the petition should not be granted.

4. The board at the time and place mentioned in the notice, or at the times to which the hearing of the petition may be adjourned, shall proceed to hear the petition and all objections thereto, presented in writing by any person showing cause why the prayer of the petition should not be granted.

5. The filing of such petition shall be deemed and taken as an assent by each and all such petitioners to the exclusion from the district of the property mentioned in the petition, or any part thereof.

6. The board, if it deems it not for the best interest of the district that the property mentioned in the petition, or portion thereof, be excluded from the district, shall order that the petition be denied in whole or in part, as the case may be.

7. If the board deems it for the best interest of the district that the property mentioned in the petition, or some portion thereof be excluded from the district, the board shall order that the petition be granted in whole or in part, as the case may be.

8. There shall be no withdrawal from a petition after consideration by the board nor shall further objection be filed except in case of fraud or misrepresentation.

9. Upon allowance of such petition, the board shall file for record a certified copy of its resolution making such change, as provided in NRS 318.075 ~~[.]~~ *or section 2 of this act.*

Sec. 30. *NRS 318.258 is hereby amended to read as follows:*

318.258 The boundaries of a district may be enlarged by the inclusion of additional real property therein in the following manner:

1. The fee owner or owners of any real property capable of being served with facilities of the district may file with the board a petition in writing praying that such property be included in the district.

2. The petition shall:

(a) Set forth an accurate legal description of the property owned by the petitioners.

(b) State that assent to the inclusion of such property in the district is given by the signers thereto, constituting all the fee owners of such property.

(c) Be acknowledged in the same manner required for a conveyance of land.

3. There shall be no withdrawal from a petition after consideration by the board nor shall further objections be filed except in case of fraud or misrepresentation.

4. The board shall hear the petition at an open meeting after publishing the notice of the filing of such petition, and of the place, time and date of such meeting, and the names and addresses of the petitioners. The board shall grant or deny the petition and the action of the board is final and conclusive. If the petition is granted as to all or any of the real property therein described, the board shall make an order to that effect, and file it for record as provided in NRS 318.075 ~~[.]~~ *or section 2 of this act.*

5. If the costs of extending the facilities of the district are paid by the property owners of the area to be included within the district, these property owners are entitled to receive any money charged and collected by the district when additional property owners utilize the facilities which were extended.

6. The board of trustees of the district shall pay to the property owners pro rata shares of the money charged and collected.

7. After the date of its inclusion in such district, such property is subject to all of the taxes and charges imposed by the district, and is liable for its proportionate share of existing general obligation bonded indebtedness of the district; but it is not liable for any taxes or charges levied or assessed prior to its inclusion in the district, nor shall its entry into the district be made subject to or contingent upon the payment or assumption of any penalty, toll or charge, other than any reasonable annexation charge which the board may fix and uniformly assess and the tolls and charges which are uniformly made, assessed or levied for the entire district. Such charges shall be computed in such a manner as not to place a new charge against the district members nor penalize the area annexed.

8. In any district within the region of any interstate compact relating to planning, when any petition for the inclusion of property into any district is denied, the petitioner may appeal the denial to the board of county commissioners of the county in which such district is located, which shall review such denial and may, in its discretion, order that such property be included in the district.

9. The board of county commissioners of any county in which a district is located may by ordinance require the district to include additional real property within its boundaries if:

(a) The inclusion is required by a federal law or regulation issued thereunder;

(b) The district can provide the services required by the owners of the real property; and

(c) The owners of the real property pay the costs of providing the facilities.

Sec. 31. *NRS 318.490 is hereby amended to read as follows:*

318.490 *Except as otherwise provided in section 5 of this act:*

1. Except as otherwise provided in NRS 318.492, whenever a majority of the members of the board of county commissioners of any county deem it to be in the best interests of the county and of the district that the district be merged, consolidated or dissolved, or if the board of trustees of a district, by resolution pursuant to subsection 3, agrees to such a merger, consolidation or dissolution, the board of county commissioners shall so determine by ordinance, after there is first found, determined and recited in the ordinance that:

(a) All outstanding indebtedness and bonds of all kinds of the district have been paid or will be assumed by the resulting merged or consolidated unit of government.

(b) The services of the district are no longer needed or can be more effectively performed by an existing unit of government.

2. The county clerk shall thereupon certify a copy of the ordinance to the board of trustees of the district and shall mail written notice to all property owners within the district in his county, containing the following:

(a) The adoption of the ordinance;

(b) The determination of the board of county commissioners that the district should be dissolved, merged or consolidated; and

(c) The time and place for hearing on the dissolution, merger or consolidation.

3. If a majority of the members of the board of county commissioners of a county deems it to be in the best interests of the county and of a district that was, on October 1, 2005, exercising powers pursuant to NRS 318.140, 318.142 and 318.144, that the district be merged, consolidated or dissolved, the board of county commissioners shall submit the question of the merger, consolidation or dissolution to the board of trustees of the district. If the board of trustees of the district, by resolution, does not agree to the merger, consolidation or dissolution within 90 days after the question was submitted to it, the district may not be merged, consolidated or dissolved.

Sec. 32. *NRS 318.492 is hereby amended to read as follows:*

318.492 *Except as otherwise provided in section 5 of this act:*

1. If all the territory within a district organized pursuant to this chapter is included within the boundaries of a city incorporated under the provisions of chapter 266 of NRS, the board of county commissioners of the county shall, within 90 days after the filing of the notice required by NRS 266.033, adopt an ordinance providing for the merger of the district with the city and fixing a time and place for a hearing on the merger.

2. The county clerk shall certify a copy of the ordinance and give notice of its adoption in the manner provided by subsection 2 of NRS 318.490.

3. The board of county commissioners shall thereafter proceed to hear and determine the matter as provided in NRS 318.495 and 318.500.

Sec. 33. *NRS 318.495 is hereby amended to read as follows:*

318.495 *Except as otherwise provided in section 5 of this act:*

1. Any person who owns property which is located within the district may, on or before the date fixed, protest against the dissolution, merger or consolidation of such district, in writing, which protest shall be filed with the county clerk of such county.

2. If, at or before the time fixed by the ordinance and notice, written protest is filed signed by a majority of the owners of property within the district, the district shall not be dissolved, merged or consolidated. If any written protests are filed and the board of county commissioners determines that the protests so filed represent less than a majority of the owners of property within the district, the board may, if it so determines, complete the dissolution, merger or consolidation by the adoption of a final ordinance of dissolution, which ordinance shall contain a recital of the protests, and such recital is binding and conclusive for all purposes.

Sec. 34. *NRS 318.500 is hereby amended to read as follows:*

318.500 ~~[At]~~ *Except as otherwise provided in section 5 of this act, at* the place, date and hour specified for the hearing in the notice or at any subsequent time to which the hearing may be adjourned, the board of county commissioners shall give full consideration to all protests which may have been filed and shall hear all persons desiring to be heard and shall thereafter adopt either the final ordinance of dissolution, merger or consolidation or an ordinance determining that it shall not be dissolved, merged or consolidated.

Sec. 35. *NRS 318.505 is hereby amended to read as follows:*

318.505 ~~[Within]~~ *Except as otherwise provided in section 5 of this act, within* 30 days after the effective date of any ordinance dissolving, merging or consolidating the district, the county clerk shall file a copy of the ordinance in his office and shall cause to be filed an additional copy of the ordinance in the Office of the Secretary of State, which filings shall be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 36. *NRS 318.508 is hereby amended to read as follows:*

318.508 ~~[If]~~ *Except as otherwise provided in section 5 of this act, if* a final ordinance of dissolution is adopted pursuant to NRS 318.492:

1. The merger of the district is effective on July 1 of the year next following the date the incorporation of the city becomes effective.

2. The city shall assume the obligations and functions of the district.

3. Any outstanding and unpaid tax sale or levy and any special assessment lien of the district is valid and remains a lien upon the property against which it is assessed or levied until paid, subject to the limitations of liens provided by general law. Any tax or special assessment paid after the effective date of the merger must be placed in the general fund of the city.

4. The city council of the city has the same power to enforce the collection of any special assessment or outstanding tax sales of the district as the district would have had if it had not been merged.

Sec. 37. *NRS 318.510 is hereby amended to read as follows:*

318.510 *Except as otherwise provided in section 5 of this act:*

1. All property and all funds remaining in the treasury of any district must be:

(a) Surrendered and transferred to the county in which the district exists and become a part of the general fund of the county, if the district is dissolved;

(b) Transferred to the governmental unit which assumes its obligations and functions, if the district is merged; or

(c) Transferred to the consolidated governmental unit, if the district is consolidated.

2. All outstanding and unpaid tax sales and levies and all special assessment liens of a dissolved district are valid and remain a lien against the property against which they are assessed or levied until paid, subject to the limitations of liens provided by general law. Taxes and special assessments paid after dissolution must be placed in the general fund of the county in which the property was assessed.

3. Except as otherwise provided in NRS 318.508, the board of county commissioners has the same power to enforce the collection of all special assessments and outstanding tax sales of the district as the district had if it had not been dissolved, merged or consolidated.

4. If any area comprising the district or portion thereof is annexed to a city or town within 6 months from the effective date of the dissolution ordinance, a pro rata share of all such property and funds must be transferred to the municipality.

5. If any area comprising the district or portion thereof is not annexed to a city or town within 6 months from the effective date of the dissolution ordinance, the board of county commissioners shall pay to the owners of property located within the former district pro rata shares of the money remaining in the treasury of the district, and an amount of money equal to the value of any property which is not used for the benefit of the area formerly comprising the district. The board of county commissioners may, before paying such money, apply a proportionate amount of such payment to any special assessments which are due.

Sec. 38. *NRS 318.515 is hereby amended to read as follows:*

318.515 1. ~~[Upon]~~ *Except as otherwise provided in subsection 5, upon* notification by the Department of Taxation or upon receipt of a petition signed by 20 percent of the qualified electors of the district, that:

(a) A district of which the board of county commissioners is not the board of trustees is not being properly managed;

(b) The board of trustees of the district is not complying with the provisions of this chapter or with any other law; or

(c) The service plan established for the district is not being complied with,

➥ the board of county commissioners of the county in which the district is located shall hold a hearing to consider the notification or petition.

2. The county clerk shall mail written notice to all persons who own property within the district and to all qualified electors of the district, which

notice shall set forth the substance of the notification or petition and the time and place of the hearing.

3. At the place, date and hour specified for the hearing, or at any subsequent time to which the hearing may be adjourned, the board of county commissioners shall give full consideration to all persons desiring to be heard and shall thereafter:

(a) Adopt an ordinance constituting the board of county commissioners, ex officio, as the board of trustees of the district;

(b) Adopt an ordinance providing for the merger, consolidation or dissolution of the district pursuant to NRS 318.490 to 318.510, inclusive ~~[.]~~ , *or section 5 of this act;*

(c) File a petition in the district court for the county in which the district is located for the appointment of a receiver for the district; or

(d) Determine by resolution that management and organization of the district will remain unchanged.

4. The Department of Taxation or any interested person may, within 30 days immediately following the effective date of the ordinance adopted under paragraph (a) or resolution adopted under paragraph (d) of subsection 3, commence an action in any court of competent jurisdiction to set aside the ordinance or resolution. After the expiration of 30 days, all actions attacking the regularity, validity and correctness of that ordinance or resolution are barred.

5. The governing body of a city shall carry out the provisions of this section with respect to a district created pursuant to section 2 of this act within the sphere of influence of the city.

Sec. 39. NRS 244.188 is hereby amended to read as follows:

244.188 1. Except as otherwise provided in subsection 3 and NRS 269.128 and 269.129, a board of county commissioners may, outside the boundaries of incorporated cities and general improvement districts:

(a) Provide those services set forth in NRS 244.187 on an exclusive basis or, by ordinance, adopt a regulatory scheme for controlling the provision of those services or controlling development in those areas on an exclusive basis; or

(b) Grant an exclusive franchise to any person to provide those services.

2. If services for the collection and disposal of garbage are provided pursuant to subsection 1, the board of county commissioners may, except as otherwise provided in subsection 3, require owners of real property outside the boundaries of incorporated cities and general improvement districts to receive and pay for those services.

3. The board of county commissioners may exercise the authority provided in subsections 1 and 2 within the boundaries of a general improvement district if that district:

(a) Is not authorized to provide those services; and

(b) ~~[Includes]~~ *Except as otherwise provided in section 2 of this act, includes* any real property within 7 miles from the boundary of an incorporated city.

4. If an exclusive franchise is granted or a regulatory scheme is adopted for the mandatory collection and disposal of garbage and other waste, the initial boundaries of the collection area must be the same as the boundaries of an existing collection area under an exclusive franchise or regulatory scheme.

5. The board of county commissioners may expand the boundaries of a collection area established pursuant to subsection 4 after the board has:

(a) Conducted preliminary studies and determined that the proposed collection area is economically sound and feasible and promotes the health, safety and general welfare of the inhabitants of the county; and

(b) Held a public hearing on the proposed collection area after giving notice of the time and the place of the hearing in a newspaper of general circulation in that county. The notice must include the purpose of the hearing and describe the boundaries of the proposed collection area.

Sec. 40. NRS 266.043 is hereby amended to read as follows:

266.043 1. During the period from the filing of the notice of the results of the election by the county clerk pursuant to NRS 266.033 until the date the incorporation of the city becomes effective, the county is entitled to receive the taxes and other revenue from the incorporated city and shall continue to provide services to the city.

2. Except as otherwise provided in NRS 318.492 ~~[,]~~ *or section 5 of this act,* all special districts, except fire protection districts, located within the boundaries of an incorporated city continue to exist within that city after the incorporation becomes effective.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Raggio.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Senator Hardy moved to withdraw Amendment No. 1007 to Assembly Bill No. 513.

Motion carried.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 92.

Bill read third time.

Senator Amodei moved that Assembly Bill No. 92 be taken from the General File and placed on the General File on the last agenda.

Remarks by Senator Amodei.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 70 be taken from the Secretary's desk and placed on the General File.

Motion lost on a division of the house.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 112.

The following Assembly amendment was read:

Amendment No. 919.

"SUMMARY—Enacts provisions governing the sale of products containing materials that are used in the manufacture of methamphetamine and other controlled substances. (BDR 40-27)"

"AN ACT relating to controlled substances; requiring entities that sell certain products that are precursors to methamphetamine to place such products in an area to which the public does not have direct access, to limit the quantity of such products sold or transferred to the same person during any calendar day, to maintain a list of sales of such products and to ensure that certain information is entered in that list; prohibiting a person from acquiring more than a certain amount of certain products that are precursors to methamphetamine; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes restrictions on the sale and purchase of products that contain materials that can be used to manufacture methamphetamine.

Section 6 of this bill requires sellers of a product that contains certain materials that can be used to manufacture methamphetamine to keep the product in a locked case or cabinet or behind a store counter so that the public does not have direct access to the product. Section 7 of this bill establishes limits on the quantity of certain chemicals that can be sold to the same person during a calendar day. Section 8 of this bill requires sellers of a product that contains materials that can be used to manufacture methamphetamine to maintain a logbook of sales and transfers of the product and to ensure that certain information is entered in the logbook.

If a seller of a product that contains materials that can be used to manufacture methamphetamine violates section 6, 7 or 8 of this bill, section 9 of this bill provides that the seller is subject to a civil penalty of not more than $250,000 for each violation.

Section 10 of this bill prohibits a person from knowingly or intentionally purchasing or otherwise acquiring a certain amount of certain chemicals that can be used to manufacture methamphetamine. A person who violates this provision is subject to criminal penalties.

Section 11 of this bill prohibits a person from knowingly or intentionally entering false information in the logbook. A person who violates this provision is guilty of a category D felony.

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Logbook" means a written or electronic list of each sale or transfer of a product that is a precursor to methamphetamine.*

Sec. 4. *"Product that is a precursor to methamphetamine" means a product that contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.*

Sec. 5. *"Retail distributor" means a grocery store, general merchandise store, drugstore, pharmacy or other entity or person whose activities as a distributor of a product that is a precursor to methamphetamine are limited exclusively or almost exclusively to sales for personal use by an ultimate user, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.*

Sec. 6. *A retail distributor shall keep, store or place a product that is a precursor to methamphetamine in a locked case or cabinet or behind a counter so that the public does not have direct access to the product before a sale or transfer is made.*

Sec. 7. *1. Except as otherwise provided in subsection 2, a retail distributor shall not ~~[sell]~~ :*

(a) Sell or transfer to the same person during any calendar day , without regard to the number of transactions, more than 3.6 grams of ephedrine base, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine.

(b) Sell at retail and in nonliquid form a product that is a precursor to methamphetamine, including, without limitation, gel caps, unless:

(1) The product is packaged in blister packs, each blister containing not more than two dosage units; or

(2) If the use of blister packs is technically infeasible, the product is packaged in unit dosage packets or pouches.

2. The provisions of subsection 1 do not apply if, pursuant to 21 U.S.C. § 830(e)(3), the Attorney General of the United States has determined that a product that is a precursor to methamphetamine cannot be used to manufacture methamphetamine and provided by regulation that the product is exempt from the provisions of 21 U.S.C. § 830(d).

Sec. 8. *1. A retail distributor shall maintain a logbook.*

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

(a) The name of the product sold or transferred;

(b) The quantity of the product sold or transferred;

(c) The name and address of the purchaser or transferee; and

(d) The date and time of the sale or transfer.

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

(a) The prospective purchaser or transferee:

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

(2) Signs his name in the logbook; and

(b) The retail distributor determines that the name entered in the logbook corresponds to the name provided on the identification presented by the prospective purchaser or transferee.

4. The retail distributor must include in the logbook ~~[must include the notice which is required by 21 C.F.R. § 1314.30(f).]~~ or otherwise post or provide to a prospective purchaser or transferee a notice that entering a false statement or representation in the logbook may subject the prospective purchaser or transferee to criminal penalties under state law, as set forth in section 11 of this act, and under federal law, as set forth in 18 U.S.C. § 1001.

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

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

7. Upon ~~[the]~~ a request ~~[of]~~ , which is made for the purpose of enforcing the provisions of section 2 to 11 , inclusive, of this act, by a law enforcement agency of this State or a political subdivision thereof or a law enforcement agency of the Federal Government, a retail distributor shall disclose the information in the logbook to the law enforcement agency.

Sec. 9. *If a retail distributor violates any provision of section 6, 7 or 8 of this act, the retail distributor is subject to a civil penalty pursuant to the provisions of NRS 453.553 to 453.5533, inclusive.*

Sec. 10. *1. Except as otherwise provided in subsection 2, a person shall not knowingly or intentionally purchase, receive or otherwise acquire:*

(a) During any calendar day, more than 3.6 grams of ephedrine base, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine; or

(b) During any 30-day period, more than 9 grams of ephedrine base, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine.

2. The provisions of this section do not apply if the person purchasing, receiving or otherwise acquiring a product that is a precursor to methamphetamine is a pharmacy, practitioner, retail distributor, wholesale distributor or dispenser that is purchasing, receiving or otherwise acquiring the product for the purpose of administering, distributing or dispensing it in a lawful manner.

3. A person who violates any of the provisions of this section is guilty of a misdemeanor, except that:

(a) If the person violates any of the provisions of this section after a prior conviction under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance has become final, the person is guilty of a gross misdemeanor; and

(b) If the person violates any of the provisions of this section after two or more prior convictions under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance, or a combination of two or more such prior convictions, have become final, the person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 11. *Any person who knowingly or intentionally enters a false statement or representation in a logbook is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

Sec. 12. NRS 453.553 is hereby amended to read as follows:

453.553 1. In addition to any criminal penalty imposed for a violation of the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to 11, inclusive, of this act,* any person who *violates section 6, 7 or 8 of this act,* unlawfully sells, manufactures, delivers or brings into this State, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III or who engages in any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction.

2. As used in ~~[this section and NRS 453.5531, 453.5532 and 453.5533:]~~ *NRS 453.553 to 453.5533, inclusive:*

(a) "Each violation" includes a continuous or repetitive violation arising out of the same act.

(b) "Sell" includes exchange, barter, solicitation or receipt of an order, transfer to another for sale or resale and any other transfer for any consideration or a promise obtained directly or indirectly.

(c) "Substitute" means a substance which:

(1) Was manufactured by a person who at the time was not currently registered with the Secretary of Health and Human Services; and

(2) Is an imitation of or intended for use as a substitute for a substance listed in schedule I, II or III.

Sec. 13. NRS 453.5531 is hereby amended to read as follows:

453.5531 1. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving marijuana, to a civil penalty in an amount:

(a) Not to exceed $350,000, if the quantity involved is 100 pounds or more, but less than 2,000 pounds.

(b) Not to exceed $700,000, if the quantity involved is 2,000 pounds or more, but less than 10,000 pounds.

(c) Not to exceed $1,000,000, if the quantity involved is 10,000 pounds or more.

2. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance, except marijuana, which is listed in schedule I or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed $350,000, if the quantity involved is 4 grams or more, but less than 14 grams.

(b) Not to exceed $700,000, if the quantity involved is 14 grams or more, but less than 28 grams.

(c) Not to exceed $1,000,000, if the quantity involved is 28 grams or more.

3. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance which is listed in schedule II or III or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed $350,000, if the quantity involved is 28 grams or more, but less than 200 grams.

(b) Not to exceed $700,000, if the quantity involved is 200 grams or more, but less than 400 grams.

(c) Not to exceed $1,000,000, if the quantity involved is 400 grams or more.

4. Unless a greater civil penalty is authorized by another provision of this section, the State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, to a civil penalty in an amount not to exceed $350,000.

5. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of section 6, 7 or 8 of this act, to a civil penalty in an amount not to exceed $250,000 for each violation.

Sec. 14. NRS 453.5533 is hereby amended to read as follows:

453.5533 1. A civil action brought pursuant to NRS 453.553 must be brought within 3 years after the conduct in violation of the provisions of

NRS 453.011 to 453.552, inclusive, *and sections 2 to 11, inclusive, of this act* occurs.

2. Such a civil action is not barred by a prior acquittal of the defendant in a criminal action arising out of the same act, transaction or occurrence. A final judgment or decree rendered in favor of the State in any criminal proceeding arising out of the same act, transaction or occurrence estops the defendant in a subsequent civil action from denying the essential allegations of the criminal offense.

Sec. 15. *This act becomes effective on July 1, 2007.*

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 112.

Remarks by Senators Washington, Coffin, Heck, Care and Titus.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 169.

The following Assembly amendment was read:

Amendment No. 859.

"SUMMARY—Adopts the Revised Uniform Anatomical Gift Act. (BDR 40-968)"

"AN ACT relating to anatomical gifts; adopting the Revised Uniform Anatomical Gift Act; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, Nevada has enacted the Uniform Anatomical Gift Act, which establishes the rights of donors and other authorized persons to affirmatively make anatomical gifts of human bodies and parts for the purpose of transplantation, therapy, research or education. The existing Uniform Act also sets forth various requirements and procedures for making, amending, revoking and refusing to make anatomical gifts. (NRS 451.500-451.590)

This bill replaces the existing Uniform Act with the Revised Uniform Anatomical Gift Act. This bill retains many of the provisions of the existing Uniform Act. However, this bill reorganizes and updates various provisions from the existing Uniform Act, and it adds certain new provisions to better facilitate the process of making anatomical gifts.

Section 22 of this bill revises the existing Uniform Act by expanding the persons who may make an anatomical gift to include an agent or guardian of a person under certain circumstances and an emancipated minor, a minor who applies for a driver's license and the parents of an unemancipated minor under certain circumstances.

Section 23 of this bill revises the existing Uniform Act by expanding the methods for making an anatomical gift to include making an anatomical gift on a state-issued identification card, through a donor registry or, during a terminal illness or injury, through any oral or physical communication

witnessed by at least two adults, at least one of whom is a disinterested witness.

Section 24 of this bill revises the existing Uniform Act by expanding the methods for amending and revoking an anatomical gift to include destroying or cancelling the record of the anatomical gift, or any part thereof, with the intent to revoke the gift and, during a terminal illness or injury, making any oral or physical communication witnessed by at least two adults, at least one of whom is a disinterested witness.

Section 25 of this bill revises the existing Uniform Act by updating and clarifying the provisions governing a person's right to refuse to make an anatomical gift and the procedures a person must follow to amend or revoke such a refusal.

Section 34 of this bill amends the existing Uniform Act by adding a new prohibition which provides that a person who, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces or obliterates a document making, amending or revoking an anatomical gift or refusing to make an anatomical gift is guilty of a category C felony.

Section 58 of this bill amends the existing Uniform Act by increasing the penalty from a category D felony to a category C felony for a person who unlawfully purchases or sells a body part for transplantation or therapy when the body part is intended for an anatomical gift.

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

Section 1. Chapter 451 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 41, inclusive, of this act.

Sec. 2. *"Adult" means a natural person who is at least 18 years of age.*

Sec. 3. *"Agent" means a natural person:*

1. Authorized to make health-care decisions on the principal's behalf by a power of attorney for health care; or

2. Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

Sec. 4. *"Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent or guardian of the natural person who makes, amends, revokes or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the natural person. The term does not include a person to which an anatomical gift could pass under section 29 of this act.*

Sec. 5. *"Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts. The term includes, without limitation, a donor registry that has entered into a contract with the Department of Motor Vehicles pursuant to NRS 483.340 or 483.840.*

Sec. 6. *"Driver's license" means a license or permit issued by the Department of Motor Vehicles to operate a vehicle, whether or not conditions are attached to the license or permit.*

Sec. 7. *"Eye bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes.*

Sec. 8. *"Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of a natural person. The term does not include a guardian ad litem.*

Sec. 9. *"Know" means to have actual knowledge.*

Sec. 10. *"Minor" means a natural person who is under 18 years of age.*

Sec. 11. *"Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.*

Sec. 12. *"Parent" means a parent whose parental rights have not been terminated.*

Sec. 13. *"Prospective donor" means a natural person who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research or education. The term does not include a natural person who has made a refusal.*

Sec. 14. *"Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.*

Sec. 15. *"Recipient" means a natural person into whose body a decedent's part has been or is intended to be transplanted.*

Sec. 16. *"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.*

Sec. 17. *"Refusal" means a record created under section 25 of this act that expressly states an intent to bar other persons from making an anatomical gift of a natural person's body or part.*

Sec. 18. *"Sign" means, with the 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 symbol, sound or process.

Sec. 19. *"Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.*

Sec. 20. *"Tissue bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue.*

Sec. 21. *"Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.*

Sec. 22. *Subject to section 26 of this act, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research or education in the manner provided in section 23 of this act by:*

1. The donor, if the donor is an adult or if the donor is a minor and is:

(a) Emancipated; or

(b) Authorized under state law to apply for a driver's license because the donor is at least 16 years of age;

2. An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

3. A parent of the donor, if the donor is an unemancipated minor; or

4. The donor's guardian.

Sec. 23. *1. A donor may make an anatomical gift:*

(a) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(b) In a will;

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(d) As provided in subsection 2.

2. A donor or other person authorized to make an anatomical gift under section 22 of this act may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another natural person at the direction of the donor or other person and must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in paragraph (a).

3. Revocation, suspension, expiration or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

4. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Sec. 24. *1. Subject to section 26 of this act, a donor or other person authorized to make an anatomical gift under section 22 of this act may amend or revoke an anatomical gift by:*

(a) A record signed by:

(1) The donor;

(2) The other person; or

(3) Subject to subsection 2, another natural person acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

2. A record signed pursuant to subparagraph (3) of paragraph (a) of subsection 1 must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in paragraph (a).

3. Subject to section 26 of this act, a donor or other person authorized to make an anatomical gift under section 22 of this act may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

4. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

5. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection 1.

Sec. 25. *1. A natural person may refuse to make an anatomical gift of his body or part by:*

(a) A record signed by:

(1) Him; or

(2) Subject to subsection 2, another natural person acting at his direction if he is physically unable to sign;

(b) His will, whether or not the will is admitted to probate or invalidated after his death; or

(c) Any form of communication made by him during his terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

2. A record signed pursuant to subparagraph (2) of paragraph (a) of subsection 1 must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the natural person; and

(b) State that it has been signed and witnessed as provided in paragraph (a).

3. A natural person who has made a refusal may amend or revoke the refusal:

(a) In the manner provided in subsection 1 for making a refusal;

(b) By subsequently making an anatomical gift pursuant to section 23 of this act that is inconsistent with the refusal; or

(c) By destroying or cancelling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

4. Except as otherwise provided in subsection 8 of section 26 of this act, in the absence of an express, contrary indication by the natural person set forth in the refusal, a natural person's unrevoked refusal to make an anatomical gift of his body or part bars all other persons from making an anatomical gift of his body or part.

Sec. 26. *1. Except as otherwise provided in subsection 7 and subject to subsection 6, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 23 of this act or an amendment to an anatomical gift of the donor's body or part under section 24 of this act.*

2. A donor's revocation of an anatomical gift of the donor's body or part under section 24 of this act is not a refusal and does not bar another person specified in section 22 or 27 of this act from making an anatomical gift of the donor's body or part under section 23 or 28 of this act.

3. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 23 of this act or an amendment to an anatomical gift of the donor's body or part under section 24 of this act, another person may not make, amend or revoke the gift of the donor's body or part under section 28 of this act.

4. A revocation of an anatomical gift of a donor's body or part under section 24 of this act by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 23 or 28 of this act.

5. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 22 of this act, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

6. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 22 of this act, an anatomical gift of a part for one or more of the purposes set forth in section 22 of this act is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 23 or 28 of this act.

7. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

8. If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Sec. 27. *1. Subject to subsections 2 and 3 and unless barred by section 25 or 26 of this act, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:*

(a) An agent of the decedent at the time of death who could have made an anatomical gift under subsection 2 of section 22 of this act immediately before the decedent's death;

(b) The spouse of the decedent;

(c) Adult children of the decedent;

(d) Parents of the decedent;

(e) Adult siblings of the decedent;

(f) Adult grandchildren of the decedent;

(g) Grandparents of the decedent;

(h) An adult who exhibited special care and concern for the decedent;

(i) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(j) Any other person having the authority to dispose of the decedent's body.

2. If there is more than one member of a class listed in paragraphs (a), (c), (d), (e), (f), (g) or (i) of subsection 1 entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 29 of this act knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

3. A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection 1 is reasonably available to make or to object to the making of an anatomical gift.

Sec. 28. *1. A person authorized to make an anatomical gift under section 27 of this act may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the natural person receiving the oral communication.*

2. Subject to subsection 3, an anatomical gift by a person authorized under section 27 of this act may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under section 27 of this act may be:

(a) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

3. A revocation under subsection 2 is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital or physician or technician knows of the revocation.

Sec. 29. *1. An anatomical gift may be made to the following persons named in the document of gift:*

(a) A hospital, accredited medical school, dental school, college, university, organ procurement organization or other appropriate person, for research or education;

(b) Subject to subsection 2, a natural person designated by the person making the anatomical gift if the natural person is the recipient of the part; or

(c) An eye bank or tissue bank.

2. If an anatomical gift to a natural person under paragraph (b) of subsection 1 is not medically suitable for transplantation into the natural person, the gift, in the absence of an express, contrary indication by the person making the gift:

(a) If it is medically suitable for transplantation or therapy for other natural persons, must be used for transplantation or therapy, and the gift passes in accordance with subsection ~~[7.]~~ 8.

(b) If it is not medically suitable for transplantation or therapy for other natural persons, may be used for research or education and, if so used, the gift passes to the appropriate procurement, research or educational organization or other appropriate person for research or education.

3. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection 1 but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement, research or educational organization or other appropriate person for research or education.

4. For the purpose of subsection 3, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not

set forth in any priority, the gift, in the absence of an express, contrary indication by the person making the gift:

(a) If it is medically suitable for transplantation or therapy, must be used for transplantation or therapy, and the gift passes in accordance with paragraphs (a), (b) and (c) of subsection 3.

(b) If it is not medically suitable for transplantation or therapy, may be used for research or education and, if so used, the gift passes to the appropriate procurement, research or educational organization or other appropriate person for research or education.

5. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection 1 and does not identify the purpose of the gift, the gift, in the absence of an express, contrary indication by the person making the gift:

(a) If it is medically suitable for transplantation or therapy, must be used for transplantation or therapy, and the gift passes in accordance with subsection ~~[7.]~~ 8.

(b) If it is not medically suitable for transplantation or therapy, may be used for research or education and, if so used, the gift passes to the appropriate procurement, research or educational organization or other appropriate person for research or education.

6. If a document of gift specifies only a general intent to make an anatomical gift by words such as ~~["donor;"]~~ "donor" or "organ donor" ~~[or "body donor;"]~~ or by a symbol or statement of similar import, the gift, in the absence of an express, contrary indication by the person making the gift:

(a) If it is medically suitable for transplantation or therapy, must be used for transplantation or therapy, and the gift passes in accordance with subsection ~~[7.]~~ 8.

(b) If it is not medically suitable for transplantation or therapy, may be used for research or education and, if so used, the gift passes to the appropriate procurement, research or educational organization or other appropriate person for research or education.

7. If a document of gift specifies only a general intent to make an anatomical gift by words such as "body donor" or by a symbol or statement of similar import, the gift, in the absence of an express, contrary indication by the person making the gift:

(a) If any part is medically suitable for transplantation or therapy, must be used for transplantation or therapy, and the gift passes in accordance with subsection 8.

(b) If any part is not medically suitable for transplantation or therapy, may be used for research or education and, if so used, the gift passes to the appropriate procurement, research or educational organization or other appropriate person for research or education.

8. For purposes of subsections 2, 5 , 6 and ~~[6,]~~ 7, if an anatomical gift is medically suitable for transplantation or therapy, the following rules apply:

(a) If the part is an eye, the gift passes to the appropriate eye bank.

(b) If the part is tissue, the gift passes to the appropriate tissue bank.

(c) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

~~[8.]~~ *9. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under paragraph (b) of subsection 1, passes to the organ procurement organization as custodian of the organ.*

~~[9.]~~ *10. If an anatomical gift does not pass pursuant to subsections 1 to* ~~[8,]~~ *9, inclusive, or the decedent's body or part is not used for transplantation, therapy, research or education, custody of the body or part passes to the person under obligation to dispose of the body or part.*

~~[10.]~~ *11. A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 23 or 28 of this act or if the person knows that the decedent made a refusal under section 25 of this act that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.*

~~[11.]~~ *12. Except as otherwise provided in paragraph (b) of subsection 1, nothing in NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act affects the allocation of organs for transplantation or therapy.*

Sec. 30. *1. The following persons shall make a reasonable search of a natural person who the person reasonably believes is dead or near death for a document of gift or other information identifying the natural person as a donor or as a natural person who made a refusal:*

(a) A law enforcement officer, firefighter, paramedic or other emergency rescuer finding the natural person; and

(b) If no other source of the information is immediately available, a hospital, as soon as practical after the natural person's arrival at the hospital.

2. If a document of gift or a refusal to make an anatomical gift is located by the search required by paragraph (a) of subsection 1 and the natural person or deceased natural person to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

3. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

Sec. 31. *1. A document of gift need not be delivered during the donor's lifetime to be effective.*

2. Upon or after a natural person's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the natural person shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the natural person or by a person to which the gift could pass under section 29 of this act.

Sec. 32. *1. When a hospital refers a natural person at or near death to a procurement organization, the organization shall make a reasonable search of the records of ~~[the Department of Motor Vehicles and]~~ any donor registry that it knows exists for the geographical area in which the natural person resides to ascertain whether the natural person has made an anatomical gift.*

2. ~~[A procurement organization must be allowed reasonable access to information in the records of the Department of Motor Vehicles to ascertain whether a natural person at or near death is a donor.~~

~~3.]~~ When a hospital refers a natural person at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the natural person expressed a contrary intent.

~~[4.]~~ 3. Unless prohibited by law other than NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act, at any time after a donor's death, the person to which a part passes under section 29 of this act may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

~~[5.]~~ 4. Unless prohibited by law other than NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act, an examination under subsection 2 or 3 ~~[or 4]~~ may include an examination of all medical and dental records of the donor or prospective donor.

~~[6.]~~ 5. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

~~[7.]~~ 6. Upon referral by a hospital under subsection 1, a procurement organization shall make a reasonable search for any person listed in section 27 of this act having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended or revoked, it shall promptly advise the other person of all relevant information.

~~[8.]~~ 7. Subject to subsection ~~[9]~~ 10 of section 29 and section 40 of this act, the rights of the person to which a part passes under section 29 of this act are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the

part passes under section 29 of this act, upon the death of the donor and before embalming, burial or cremation, shall cause the part to be removed without unnecessary mutilation.

~~*[9.]*~~ *8. Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.*

~~*[10.]*~~ *9. A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.*

10. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift, if an anatomical gift of a part has been made for the purpose of transplantation or therapy and the part is medically suitable for that purpose, the appropriate procurement organization shall discuss with a person authorized to make an anatomical gift under section 22 of this act the person's willingness to make an anatomical gift of any other part for the purpose of research or education.

Sec. 33. *Each hospital in this State shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.*

Sec. 34. *1. A person shall not, in order to obtain a financial gain, intentionally falsify, forge, conceal, deface or obliterate a document of gift, an amendment or revocation of a document of gift or a refusal.*

2. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130, or by a fine of not more than $50,000, or by both fine and the punishment provided in NRS 193.130.

Sec. 35. *1. A person that acts in accordance with NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act, or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution or administrative proceeding.*

2. Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

3. In determining whether an anatomical gift has been made, amended or revoked under NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act, a person may rely upon representations of a natural person listed in paragraphs (b), (c), (d), (e), (f), (g) or (h) of subsection 1 of section 27 of this act relating to the natural person's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

Sec. 36. *1. A document of gift is valid if executed in accordance with:*

(a) The provisions of NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act;

(b) The laws of the state or country where it was executed; or

(c) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence or was a national at the time the document of gift was executed.

2. If a document of gift is valid under this section, the law of this State governs the interpretation of the document of gift.

3. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Sec. 37. *1. A person shall not create or maintain a donor registry unless the donor registry complies with the provisions of NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act and all other applicable provisions of federal and state law.*

2. A donor registry must:

(a) Allow a donor or other person authorized under section 22 of this act to include on the donor registry a statement or symbol that the donor has made, amended or revoked an anatomical gift;

(b) Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift; and

(c) Be accessible for purposes of paragraphs (a) and (b) 7 days a week on a 24-hour basis.

3. Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift.

4. This section does not apply to a donor registry that is created to contain records of anatomical gifts and amendments to or revocations of anatomical gifts of only the whole body of a donor for the purpose of research or education.

Sec. 38. *1. As used in this section:*

(a) "Advance health-care directive" means a power of attorney for health care or ~~[a]~~ other record signed by a prospective donor , or executed in the manner set forth in NRS 449.840, containing the prospective donor's direction concerning a health-care decision for the prospective donor.

(b) "Declaration" means a record signed by a prospective donor , or executed as set forth in NRS 449.600, specifying the circumstances under which ~~[a life-support system]~~ life-sustaining treatment may be withheld or withdrawn from the prospective donor.

(c) "Health-care decision" means any decision made regarding the health care of the prospective donor.

2. If a prospective donor has a declaration or advance health-care directive ~~[,]~~ and the terms of the declaration or advance health-care

directive and the express or implied terms of the potential anatomical gift are in conflict concerning the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy:

(a) The attending physician of the prospective donor shall confer with the prospective donor to resolve the conflict or, if the prospective donor is incapable of resolving the conflict, with:

(1) An agent acting under the declaration or advance health-care directive of the prospective donor; or

(2) If an agent is not named in the declaration or advance health-care directive or the agent is not reasonably available, any other person authorized by law, other than by a provision of sections 2 to 41, inclusive, of this act, to make a health-care decision for the prospective donor.

(b) The conflict must be resolved as expeditiously as practicable.

(c) Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift of the prospective donor's body or part under section 22 of this act.

(d) Before the resolution of the conflict, measures necessary to ensure the medical suitability of ~~[an organ for transplantation or therapy]~~ the part may not be withheld or withdrawn from the prospective donor, ~~[unless the declaration expressly provides to the contrary.]~~ if withholding or withdrawing the measures is not medically contraindicated for the appropriate treatment of the prospective donor at the end of his life.

Sec. 39. *1. A coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research or education.*

2. If a coroner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner and a postmortem examination is going to be performed, unless the coroner denies recovery in accordance with section 40 of this act, the coroner or designee shall conduct a postmortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

3. A part may not be removed from the body of a decedent under the jurisdiction of a coroner for transplantation, therapy, research or education unless the part is the subject of an anatomical gift or such removal is authorized or required by other law. The body of a decedent under the jurisdiction of the coroner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift or such delivery is authorized or required by NRS 451.350 to 451.470, inclusive, or other law. This subsection does not preclude a coroner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner.

Sec. 40. *1. Upon request of a procurement organization, a coroner shall release to the procurement organization the name, contact information*

and available medical and social history of a decedent whose body is under the jurisdiction of the coroner. If the decedent's body or part is medically suitable for transplantation, therapy, research or education, the coroner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the coroner only if relevant to transplantation or therapy.

2. The coroner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, X rays, other diagnostic results and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the coroner which the coroner determines may be relevant to the investigation.

3. A person that has any information requested by a coroner pursuant to subsection 2 shall provide that information as expeditiously as possible to allow the coroner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research or education.

4. If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the coroner and a postmortem examination is not required, or the coroner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the coroner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research or education.

5. If an anatomical gift of a part from the decedent under the jurisdiction of the coroner has been or might be made, but the coroner or designee initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death, the coroner or designee shall consult with the procurement organization or the physician or technician designated by the procurement organization to remove the part about the proposed recovery. After consultation, the coroner or designee may allow the recovery by the procurement organization to proceed and may attend and witness all procedures before, during and after removal of the part.

6. Following the consultation under subsection 5, if the coroner or designee still intends to deny recovery, the coroner or designee, at the request of the procurement organization, shall consult additionally with the physician or technician designated by the procurement organization to remove the part before making a final determination not to allow the procurement organization to recover the part. The additional consultation must be based on the protocols developed pursuant to subsection 10 to resolve conflicts and to maximize the recovery of parts for the purpose of transplantation or therapy, except that the coroner retains the right to deny recovery based on clear need for the postmortem examination, including,

without limitation, preservation of the part. After such additional consultation, the coroner or designee may:

(a) Allow recovery by the procurement organization to proceed and may attend and witness all procedures before, during and after removal of the part; or

(b) If the coroner or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.

7. If the coroner or designee denies recovery under subsection 6:

(a) The coroner or designee shall:

(1) Document in a record the specific reasons for not allowing recovery of the part;

(2) Include the specific reasons in the records of the coroner; and

(3) Share such records, including, without limitation, the specific reasons documented by the coroner or designee for not allowing recovery of the part, with the procurement organization in the interest of improving the protocols developed pursuant to subsection 10; and

(b) The procurement organization shall include in its records the specific reasons documented by the coroner or designee for not allowing recovery of the part.

8. If the coroner or designee allows recovery of a part under subsection 4, 5 or 6, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the coroner, in a timely manner, with a record describing the condition of the part, a biopsy, a photograph and any other information and observations that would assist in the postmortem examination.

9. If a coroner or designee elects to attend and witness a removal procedure under subsection 5 or 6, the procurement organization requesting the recovery of the part shall, upon request by the coroner or designee, reimburse the coroner or designee for the additional costs incurred in attending and witnessing the removal procedure.

10. For purposes of subsection 6, the coroner and the procurement organization shall develop mutually agreed-upon protocols to resolve conflicts between the coroner and the procurement organization regarding the recovery of parts. The protocols:

(a) Must focus on maximizing the recovery of parts for the purpose of transplantation or therapy;

(b) Must allow the coroner the right to deny recovery of a part where recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death; and

(c) May include, without limitation, requirements and procedures concerning:

(1) Consultations and cooperation between the coroner or designee and the physician or technician designated by the procurement organization to remove the part;

(2) The taking of photographs before, during and after removal of the part;

(3) Video recording the removal procedure; and

(4) The taking of tissue samples from the part and the conducting of biopsies, testing or other examinations of the part.

Sec. 41. *NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act modify, limit and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but do not modify, limit or supersede Section 101(a) of that Act, 15 U.S.C. § 7001(a), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).*

Sec. 42. NRS 451.010 is hereby amended to read as follows:

451.010 1. The right to dissect the dead body of a human being is limited to cases:

(a) Specially provided by statute or by the direction or will of the deceased.

(b) Where a coroner is authorized under NRS 259.050 or an ordinance enacted pursuant to NRS 244.163 to hold an inquest upon the body, and then only as he may authorize dissection.

(c) Where the husband, wife or next of kin charged by law with the duty of burial authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized.

(d) Where authorized by the provisions of NRS 451.350 to 451.470, inclusive.

(e) Where authorized by the provisions of NRS 451.500 to 451.590, inclusive ~~[.]~~ *, and sections 2 to 41, inclusive, of this act.*

2. Every person who makes, causes or procures to be made any dissection of the body of a human being, except as provided in subsection 1, is guilty of a gross misdemeanor.

Sec. 43. NRS 451.500 is hereby amended to read as follows:

451.500 NRS 451.500 to 451.590, inclusive, *and sections 2 to 41, inclusive, of this act* may be cited as the *Revised* Uniform Anatomical Gift Act.

Sec. 44. NRS 451.503 is hereby amended to read as follows:

451.503 NRS 451.500 to 451.590, inclusive, *and sections 2 to 41, inclusive, of this act* apply to ~~[a document of gift, revocation or refusal to make]~~ an anatomical gift ~~[signed by the donor or a person authorized to make or object to making]~~ *or amendment to, revocation of or refusal to make* an anatomical gift ~~[before, on or after October 1, 1989.]~~ *, whenever made.*

Sec. 45. NRS 451.505 is hereby amended to read as follows:

451.505 ~~[NRS 451.500 to 451.590, inclusive,]~~ *In applying and construing the Revised Uniform Anatomical Gift Act, consideration* must be ~~[applied and construed to effectuate their general purpose to make uniform]~~ *given to the need to promote uniformity of* the law with respect to ~~[the subject~~

~~of the Uniform Anatomical Gift Act~~] *its subject matter* among states [~~enacting~~] *that enact* it.

Sec. 46. NRS 451.510 is hereby amended to read as follows:

451.510 [~~Unless the context otherwise requires, as~~] *As* used in NRS 451.500 to 451.590, inclusive, *and sections 2 to 41, inclusive, of this act, unless the context otherwise requires,* the words and terms defined in NRS 451.513 to 451.553, inclusive, *and sections 2 to 21, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 47. NRS 451.513 is hereby amended to read as follows:

451.513 "Anatomical gift" means a donation of all or part of a human body to take effect [~~upon or after death.~~] *after the donor's death for the purpose of transplantation, therapy, research or education.*

Sec. 48. NRS 451.520 is hereby amended to read as follows:

451.520 "Decedent" means a deceased *natural* person [~~and~~] *whose body or part is or may be the source of an anatomical gift. The term* includes a stillborn infant [~~or~~] *and, subject to restrictions imposed by law other than NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act, a* fetus.

Sec. 49. NRS 451.523 is hereby amended to read as follows:

451.523 "Document of gift" means a *donor* card [~~, statement, will~~] or other [~~writing~~] *record* used to make an anatomical gift. *The term includes a statement or symbol on a driver's license, identification card or donor registry.*

Sec. 50. NRS 451.525 is hereby amended to read as follows:

451.525 "Donor" means a *natural* person [~~who makes~~] *whose body or part is the subject of* an anatomical gift . [~~of all or part of his body.~~]

Sec. 51. NRS 451.530 is hereby amended to read as follows:

451.530 "Hospital" means a facility licensed [~~, accredited or approved~~] as a hospital under the laws of [~~the State of Nevada~~] *any state* or a facility operated as a hospital by the United States [~~Government, the State~~] *, a state* or a subdivision of [~~the State.~~] *a state.*

Sec. 52. NRS 451.535 is hereby amended to read as follows:

451.535 "Part" means an organ, [~~tissue, eye, bone, artery, blood, fluid or other portion~~] *an eye or any tissue* of a human [~~body.~~] *being. The term does not include the whole body.*

Sec. 53. NRS 451.540 is hereby amended to read as follows:

451.540 "Person" [~~includes a~~] *means a natural person, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, public corporation,* government [~~, a~~] *or* governmental *subdivision,* agency [~~and a political subdivision of a government.~~] *or instrumentality, or any other legal or commercial entity.*

Sec. 54. NRS 451.545 is hereby amended to read as follows:

451.545 "Physician" means a *natural* person [~~licensed or otherwise~~] authorized to practice medicine [~~and surgery~~] or osteopathy [~~and surgery~~] under the laws of any state.

Sec. 55. NRS 451.547 is hereby amended to read as follows:

451.547 "Procurement organization" means ~~[a person licensed, accredited or approved under the laws of the State of Nevada for procurement, distribution or storage of human bodies or parts.]~~ *an eye bank, organ procurement organization or tissue bank.*

Sec. 56. NRS 451.550 is hereby amended to read as follows:

451.550 "State" means a state ~~[, territory or possession]~~ of the United States, the District of Columbia *,* ~~[or the Commonwealth of]~~ Puerto Rico ~~[.]~~ *, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 57. NRS 451.553 is hereby amended to read as follows:

451.553 "Technician" means a *natural* person ~~[who, under the supervision of a licensed physician, removes or processes a part.]~~ *determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. The term includes an enucleator.*

Sec. 58. NRS 451.590 is hereby amended to read as follows:

451.590 1. ~~[A]~~ *Except as otherwise provided in subsection 2, a* person shall not knowingly, for valuable consideration, purchase or sell a part *of a natural person* for transplantation or therapy ~~[.~~

~~2. Valuable consideration does not include reasonable payment]~~ *if removal of the part from the natural person is or was intended to occur after the natural person's death.*

2. A person may charge a reasonable amount for the removal, processing, ~~[disposal,]~~ preservation, quality control, storage, transportation *,* ~~[or]~~ implantation *or disposal* of a part.

3. A person who violates this section is guilty of a category ~~[D]~~ *C* felony and shall be punished as provided in NRS 193.130, or by a fine of not more than $50,000, or by both fine and the punishment provided in NRS 193.130.

Sec. 59. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in

undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.590, inclusive, *and sections 2 to 41, inclusive, of this act* or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the ~~[organ]~~ donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with ~~[an organization which registers as donors persons who desire to make anatomical gifts.]~~ *a donor registry that is in compliance with the provisions of NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act.*

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the ~~[organ]~~ donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those

persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 60. NRS 483.840 is hereby amended to read as follows:

483.840 1. The form of the identification cards must be similar to that of drivers' licenses but distinguishable in color or otherwise.

2. Identification cards do not authorize the operation of any motor vehicles.

3. Identification cards must include the following information concerning the holder:

(a) The name and sample signature of the holder.

(b) A unique identification number assigned to the holder that is not based on the holder's social security number.

(c) A personal description of the holder.

(d) The date of birth of the holder.

(e) The current address of the holder in this State.

(f) A colored photograph of the holder.

4. The information required to be included on the identification card pursuant to subsection 3 must be placed on the card in the manner specified in subsection 1 of NRS 483.347.

5. At the time of the issuance or renewal of the identification card, the Department shall:

(a) Give the holder the opportunity to have indicated on his identification card that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.590, inclusive, *and sections 2 to 41, inclusive, of this act* or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to indicate whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the ~~[organ]~~ donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with ~~[an organization which registers as donors persons who desire to make anatomical gifts.]~~ *a donor registry that is in compliance with the provisions of NRS 451.500 to 451.590, inclusive, and sections 2 to 41, inclusive, of this act.*

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.863, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his identification card.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the ~~[organ]~~ donor registry with which the Department has entered into a contract pursuant to paragraph (c) of

subsection 5 information from the records of the Department relating to persons who have identification cards issued by the Department that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

8. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 61. NRS 451.527, 451.555, 451.557, 451.560, 451.570, 451.573, 451.576, 451.577, 451.580, 451.582, 451.583 and 451.585 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

451.527 "Enucleator" defined.

451.555 Making, amending, revoking and refusing to make gifts: By person.

451.557 Making, revoking and objecting to gifts: By others.

451.560 Qualifications of donees; purposes for which gifts may be made; presumption of validity.

451.570 Delivery of document of gift.

451.573 Immunity of Department of Motor Vehicles and representatives from damages or criminal prosecution.

451.576 Coordination of procurement and use; priority for use.

451.577 Identification of potential donors: Policies and procedures; search for and notification of information; administrative sanctions.

451.580 Rights and duties at death.

451.582 Examination of gifts; limitations on liability.

451.583 Enucleation of eyes.

451.585 Applicability of provisions governing autopsies.

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 169.

Remarks by Senators Washington and Care.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 247.

The following Assembly amendment was read:

Amendment No. 823.

"SUMMARY—Creates the Nevada Youth Legislative Issues Forum. (BDR 34-52)"

"AN ACT relating to education; creating the Nevada Youth Legislative Issues Forum; prescribing the membership, powers and duties of the Forum; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 3-5 of this bill create the Nevada Youth Legislative Issues Forum, consisting of 21 members who are enrolled in grades 9-12 in public schools or otherwise eligible for enrollment in public schools but enrolled in a homeschool or private school. Each Senator appoints a member to the

Forum. Sections 6-10 of this bill set forth the powers and duties of the Forum. The Forum must hold at least two public hearings each school year, review issues of importance to the youth in this State and submit an annual report of the activities of the Forum. In addition, the Forum may, within the limits of available money, hold meetings during a regular session of the Legislature to advise the Legislature on proposed legislation concerning the youth in this State. The Forum may also conduct seminars for the benefit of its members relating to leadership, government and the legislative process. Finally, the Forum may submit a request for the drafting of one legislative measure which relates to matters within the scope of the Forum.

WHEREAS, The United States is facing a population of youth that is disengaged and lacks the necessary knowledge, skills and dispositions to participate in and carry out civic duties; and

WHEREAS, In the 2004 presidential election, 53.1 percent of Nevadans over 25 years of age voted, compared with 38.4 percent among Nevadans 18 to 24 years of age; and

WHEREAS, The lack of voter turnout for citizens who are 18 to 24 years of age is often attributed to cynicism toward the political process, disillusionment with politics, voter apathy and a lack of acknowledgment by the media and politicians of issues involving youth; and

WHEREAS, Most governmental services are designed with input and participation from the people being served; however, young people under the age of 18 are not allowed to vote and are often left out of the democratic process; and

WHEREAS, Several issues are important to the youth in the nation as well as the youth in this State, including, without limitation, education, employment opportunities, participation in state and local government, a safe environment, the prevention of substance abuse, emotional and physical well-being, foster care and access to state and local services; and

WHEREAS, Research shows that the programs designed for youth which are most effective at promoting positive outcomes are framed in terms of the constructive assets the programs seek to build rather than the negative behaviors the programs seek to avoid; and

WHEREAS, There is a growing need to reverse the trend of apathy by engaging our youth directly with policymakers in a manner that will provide genuine opportunities for our youth to acquire civic knowledge and develop the skills necessary to participate fully in a democratic society; and

WHEREAS, Within the past 5 years, Maine, New Mexico, Washington and New Hampshire have enacted bills that create a Youth Issues Forum, which institutionalizes the participation of youth in the policy-making process in those states; and

WHEREAS, The creation of a Youth Issues Forum offers policymakers an opportunity to learn from youth as well as provides a meaningful opportunity for youth to learn about the policy-making process; and

WHEREAS, By providing an avenue for participation, this State will provide our youth with an opportunity to understand the ideals of citizenship and to acquire the knowledge and skills necessary to participate in effective government and appreciate the value of American democracy; now, therefore,

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act, "Forum" means the Nevada Youth Legislative Issues Forum created by section 3 of this act.*

Sec. 3. *1. The Nevada Youth Legislative Issues Forum is hereby created, consisting of 21 members.*

2. Each member of the Senate shall , taking into consideration any recommendations made by a member of the Assembly, appoint a person who submits an application and meets the qualifications for appointment set forth in section 4 of this act. A member of the Assembly may submit recommendations to a member of the Senate concerning the appointment.

3. After the initial terms:

(a) Appointments to the Forum must be made by each member of the Senate before June 30 of each year.

(b) The term of each member of the Forum begins July 1 of the year of appointment.

4. Each member of the Forum serves a term of 1 year and may be reappointed if the member continues to meet the qualifications for appointment set forth in section 4 of this act.

Sec. 4. *1. To be eligible for appointment to the Forum, a person must be a resident of the senatorial district of the Senator who appoints him and must be:*

(a) Enrolled in a public school in this State in grade 9, 10, 11 or 12 for the school year in which he serves; or

(b) Exempt from compulsory attendance pursuant to NRS 392.070, but otherwise eligible to enroll in a public school in this State in grade 9, 10, 11 or 12 for the school year in which he serves.

2. A person who is eligible for appointment to the Forum may submit an application on the form prescribed pursuant to subsection 3 to the Senator of the senatorial district in which the person resides for appointment or reappointment to the Forum.

3. The Director of the Legislative Counsel Bureau shall prescribe a form for applications submitted pursuant to this section, which must require the signature of the principal of the school in which the applicant is enrolled or, if the applicant is exempt from compulsory attendance pursuant to NRS 392.070, the signature of a member of the community in which the applicant resides other than a relative of the applicant.

Sec. 5. *1. A position on the Forum becomes vacant upon:*

(a) The death or resignation of a member.

(b) The absence of a member for any reason from two consecutive meetings of the Forum, unless excused by the Chairman of the Forum.

(c) A change of residency of a member which renders that member ineligible under his original appointment.

2. A vacancy on the Forum must be filled for the remainder of the unexpired term in the same manner as the original appointment.

Sec. 6. *1. The Forum shall elect from among its members, to serve a term of 1 year beginning on July 1 of each year:*

(a) A Chairman, who shall conduct the meetings and oversee the formation of committees as necessary to accomplish the business of the Forum. The Chairman must be:

(1) Enrolled in a public school in this State in grade 9, 10 or 11 for the school year in which he serves; or

(2) Exempt from compulsory attendance pursuant to NRS 392.070, but otherwise eligible to enroll in a public school in this State in grade 9, 10 or 11 for the school year in which he serves.

(b) A Vice Chairman, who shall assist the Chairman and conduct the meetings of the Forum if the Chairman is absent or otherwise unable to perform his duties.

2. The Director of the Legislative Counsel Bureau:

(a) Shall provide meeting rooms and teleconference and videoconference facilities for the Forum.

(b) Shall, in the event of a vacancy on the Forum, notify the appropriate appointing authority of such vacancy.

(c) May accept gifts, grants and donations from any source for the support of the Forum in carrying out the provisions of sections 2 to 9, inclusive, of this act.

Sec. 7. *1. The Forum shall:*

(a) Hold at least two public hearings in this State each school year.

(b) Simultaneously teleconference or videoconference each public hearing to two or more prominent locations throughout this State.

(c) Evaluate, review and comment upon issues of importance to the youth in this State, including, without limitation:

(1) Education;

(2) Employment opportunities;

(3) Participation of youth in state and local government;

(4) A safe learning environment;

(5) The prevention of substance abuse;

(6) Emotional and physical well-being;

(7) Foster care; and

(8) Access to state and local services.

(d) Conduct a public awareness campaign to raise awareness about the Forum and to enhance outreach to the youth in this State.

2. The Forum may, within the limits of available money:

(a) During the period in which the Legislature is in a regular session, meet as often as necessary to conduct the business of the Forum and to advise the Legislature on proposed legislation relating to the youth in this State.

(b) Form committees, which may meet as often as necessary to assist with the business of the Forum.

(c) Conduct periodic seminars for its members regarding leadership, government and the legislative process.

(d) Employ a person to provide administrative support for the Forum or pay the costs incurred by one or more volunteers to provide any required administrative support.

3. The Forum and its committees shall comply with the provisions of chapter 241 of NRS.

4. On or before June 30 of each year, the Forum shall submit a written report to the Director of the Legislative Counsel Bureau and to the Governor describing the activities of the Forum during the immediately preceding school year and any recommendations for legislation. The Director shall transmit the written report to the Legislative Committee on Education and to the next regular session of the Legislature.

Sec. 8. *The Forum may:*

1. Request the drafting of not more than one legislative measure which relates to matters within the scope of the Forum. A request must be submitted to the Legislative Counsel on or before July 1 preceding the commencement of a regular session of the Legislature unless the Legislative Commission authorizes submitting a request after that date.

2. Adopt procedures to conduct meetings of the Forum and any committees thereof. Those procedures may be changed upon approval of a majority vote of all members of the Forum who are present and voting.

3. Advise the Director of the Legislative Counsel Bureau regarding the administration of any appropriations, gifts, grants or donations received for the support of the Forum.

Sec. 9. *The members of the Forum serve without compensation. To the extent that money is available, including, without limitation, money from gifts, grants and donations, the members of the Forum may receive the per diem allowance and travel expenses provided for state officers and employees generally for attending a meeting of the Forum or a seminar conducted by the Forum.*

Sec. 10. 1. Each Senator shall appoint a member to the Nevada Youth Legislative Issues Forum created by section 3 of this act to an initial term commencing on July 1, 2008, and expiring on June 30, 2009.

2. The Forum shall hold its first meeting not later than October 1, 2008. At the first meeting of the Forum, the members of the Forum shall elect a Chairman and a Vice Chairman who hold those positions until June 30, 2009.

3. After the initial terms of office, sections 3 and 6 of this act govern the terms of office of the members of the Forum.

Sec. 11. This act becomes effective upon passage and approval.

Senator Raggio moved that the Senate concur in the Assembly amendment to Senate Bill No. 247.

Remarks by Senator Raggio.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 275.

The following Assembly amendment was read:

Amendment No. 811.

"SUMMARY—Makes various changes relating to underground water. (BDR 48-208)"

"AN ACT relating to underground water; revising provisions governing the domestic use of underground water from a well; revising the date of priority ~~[of an appropriation]~~ *for the use* of underground water from a well for domestic purposes; authorizing the State Engineer to require the dedication or relinquishment of a water right under certain circumstances; requiring that certain conditions be met if a local ordinance allows the development and use of underground water from a well for an accessory ~~[building]~~ *dwelling unit* of a single-family dwelling; authorizing a county to relinquish a water right under certain circumstances; revising provisions governing parcel maps; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Engineer may exempt from the application of chapter 534 of NRS, relating to underground water and wells, the use of water from a well for a domestic use or purpose if the use or purpose directly relates to a single-family dwelling and the draught does not exceed 1,800 gallons per day. (NRS 534.013, 534.180) Sections 1, 4, 5 and 6 of this bill quantify the maximum limit of domestic use of underground water from a well as 2 acre feet per year instead of 1,800 gallons per day. Sections 1, 4, 6 and 7 of this bill authorize a local ordinance to extend a domestic use or purpose to an accessory ~~[building]~~ *dwelling unit* of ~~[the]~~ *a* single-family dwelling. Section 4 imposes additional responsibilities on the owner of a well, the local governing body or planning commission and the State Engineer if a local ordinance allows the development and use of underground water from a well for an accessory ~~[building]~~ *dwelling unit* of a single-family dwelling *, as defined in the local ordinance,* to qualify as a domestic use or purpose.

Under existing law, a domestic well exempted from chapter 534 of NRS is not assigned a date of priority. (NRS 534.080, 534.180) Section 2 of this bill sets the date of priority for certain domestic wells as the date of completion of the well as recorded by the driller of the well or another date as documented by evidence determined to be adequate by the State Engineer.

Under existing law, the State Engineer, in basins for which the State Engineer maintains pumping records, is required to give notice to an owner of a water right before the water right is forfeited for nonuse of the water. (NRS 534.090) Section 3 of this bill requires the State Engineer to give notice of a forfeiture of water rights for nonuse in all basins regardless of whether he maintains pumping records for the basin.

Under existing law, the State Engineer is required to adopt regulations establishing a program that allows a public water system to receive credits for the addition of new customers in certain designated groundwater basins. (NRS 534.350) Section 6 of this bill authorizes a county to relinquish a right to appropriate water from a domestic well to the State Engineer if the county requires the dedication of that right to the county by the owner of a particular parcel of land. Section 6 further states that, if such an owner becomes a new customer of a public water system, the public water system is entitled to receive a credit in the same manner as the addition of any other customer to the public water system.

Under existing law, a person who proposes to divide any land for transfer or development into four lots or less is required to prepare a parcel map and file it in accordance with local ordinance. (NRS 278.461) Section 7 of this bill requires *such* a person, in addition to filing a parcel map in accordance with *the* local ordinance, to ~~[prepare and file]~~ *provide* a *copy of the* parcel map ~~[with]~~ *to* the Division of Water Resources of the State Department of Conservation and Natural Resources and also to obtain a certificate of approval from the Division of Water Resources if certain conditions occur.

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

Section 1. NRS 534.013 is hereby amended to read as follows:

534.013 "Domestic use" or "domestic purposes" extends to culinary and household purposes directly related to ~~[a]~~ *:*

1. A single-family dwelling ~~[,]~~ *; and*

2. An accessory ~~[building]~~ dwelling unit for a single-family dwelling if provided for in an applicable local ordinance,

➥ including, without limitation, the watering of a family garden and lawn and the watering of livestock and any other domestic animals or household pets, if the amount of water drawn does not exceed the ~~[threshold daily]~~ maximum amount set *forth* in NRS 534.180 for exemption from the application of this chapter.

Sec. 1.5. NRS 534.050 is hereby amended to read as follows:

534.050 1. Except as otherwise provided in subsection 2 and NRS 534.180, every person desiring to sink or bore a well in any basin or portion therein in the State designated by the State Engineer, as provided for in this chapter, must first make application to and obtain from the State Engineer a permit to appropriate the water, pursuant to the provisions of chapter 533 of NRS relating to the appropriation of the public waters, before performing any work in connection with the boring or sinking of the well.

2. Upon written application and a showing of good cause, the State Engineer may issue a written waiver of the requirements of subsection 1:

(a) For exploratory wells to be drilled to determine the availability of water or the quality of available water;

(b) To allow temporary use of the water in constructing a highway or exploring for *water,* oil, gas, minerals or geothermal resources; or

(c) For wells to be drilled in shallow groundwater systems and pumped to alleviate potential hazards to persons and property resulting from the rise of groundwater caused by secondary recharge. If practical, approved by the State Engineer and consistent with this chapter and chapter 533 of NRS, the withdrawn water must be used for some other beneficial use.

3. In other basins or portions of basins which have not been designated by the State Engineer no application or permit to appropriate water is necessary until after the well is sunk or bored and water developed. Before any diversion of water may be made from the well, the appropriator must make application to and obtain from the State Engineer, pursuant to the provisions of chapter 533 of NRS, a permit to appropriate the water.

4. Upon written application and a showing of good cause, the State Engineer may issue a written waiver of the requirements of subsection 3, to allow temporary use of water in constructing a highway or exploring for *water,* oil, gas, minerals or geothermal resources.

5. Any person using water after a permit has been withdrawn, denied, cancelled, revoked or forfeited is guilty of a misdemeanor. Each day of violation of this subsection constitutes a separate offense and is separately punishable.

Sec. 2. NRS 534.080 is hereby amended to read as follows:

534.080 1. A legal right to appropriate underground water for beneficial use from an artesian or definable aquifer subsequent to March 22, 1913, or from percolating water, the course and boundaries of which are incapable of determination, subsequent to March 25, 1939, can only be acquired by complying with the provisions of chapter 533 of NRS pertaining to the appropriation of water.

2. The State Engineer may, upon written notice sent by registered or certified mail, return receipt requested, advise the owner of a well who is using water therefrom without a permit to appropriate ~~[such]~~ *the* water to cease using ~~[such]~~ *the* water until he has complied with the laws pertaining to the appropriation of water. If the owner fails to initiate proceedings to secure such *a* permit within 30 days ~~[from]~~ *after* the date of ~~[such]~~ *the* notice *,* he ~~[shall be]~~ *is* guilty of a misdemeanor.

3. ~~[The]~~ *Except as otherwise provided in subsection 4 and NRS 534.180, the* date of priority of all appropriations of water from an underground source ~~[,]~~ mentioned in this section ~~[,]~~ is the date when application is made in proper form and filed in the Office of the State Engineer pursuant to the provisions of chapter 533 of NRS.

4. The date of priority ~~[of an appropriation]~~ for the use of underground water from a well for domestic purposes where the draught does not exceed 2 acre feet per year is the date of completion of the well as:

(a) Recorded by the well driller on the log he files with the State Engineer pursuant to NRS 534.170; or

(b) Demonstrated through any other documentation or evidence specified by the State Engineer.

Sec. 3. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right ~~[,]~~ or a permitted right, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. ~~[For water rights in basins for which the State Engineer keeps pumping records, if]~~ *If* the records of the State Engineer *or any other documents specified by the State Engineer* indicate at least 4 consecutive years, but less than 5 consecutive years, of nonuse of all or any part of ~~[such]~~ a water right which is governed by this chapter, the State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail that he has 1 year after the date of the notice in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 2 to avoid forfeiting the water right. If, after 1 year after the date of the notice, proof of beneficial use is not sent to the State Engineer, the State Engineer shall, unless he has granted a request to extend the time necessary to work a forfeiture of the water right, declare the right forfeited within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the owner of record whose right has been declared forfeited, the owner of record fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

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

(a) Whether the holder has shown good cause for his failure to use all or any part of the water beneficially for the purpose for which his right is acquired or claimed;

(b) The unavailability of water to put to a beneficial use which is beyond the control of the holder;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Any prolonged period in which precipitation in the basin where the water right is located is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin; and

(e) Whether the holder has demonstrated efficient ways of using the water for agricultural purposes, such as center-pivot irrigation.

➥ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether he has granted or denied the holder's request for an extension pursuant to this subsection.

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

4. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his examination that an abandonment has taken place, he shall so state in his ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

Sec. 3.5. NRS 534.120 is hereby amended to read as follows:

534.120 1. Within an area that has been designated by the State Engineer, as provided for in this chapter, where, in his judgment, the groundwater basin is being depleted, the State Engineer in his administrative capacity ~~[is herewith empowered to]~~ *may* make such rules, regulations and orders as are deemed essential for the welfare of the area involved.

2. In the interest of public welfare, the State Engineer is authorized and directed to designate preferred uses of water within the respective areas so designated by him and from which the groundwater is being depleted, and in acting on applications to appropriate groundwater, he may designate such

preferred uses in different categories with respect to the particular areas involved within the following limits:

(a) Domestic, municipal, quasi-municipal, industrial, irrigation, mining and stock-watering uses; and

(b) Any uses for which a county, city, town, public water district or public water company furnishes the water.

3. Except as otherwise provided in subsection 5, the State Engineer may:

(a) Issue temporary permits to appropriate groundwater which can be limited as to time and which may, except as limited by subsection 4, be revoked if and when water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.

(b) Deny applications to appropriate groundwater for any use in areas served by such an entity.

(c) Limit the depth of domestic wells.

(d) Prohibit the drilling of wells for domestic use, as defined in NRS 534.013 , ~~[and 534.0175,]~~ in areas where water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof.

(e) In connection with the approval of a parcel map in which any parcel is proposed to be served by a domestic well, require the dedication to a city or county or a designee of a city or county, or require a relinquishment to the State Engineer, of any right to appropriate water required by the State Engineer to ensure a sufficient supply of water for each of those parcels, unless the dedication of the right to appropriate water is required by a local ordinance.

4. The State Engineer may revoke a temporary permit issued pursuant to subsection 3 for residential use, and require a person to whom groundwater was appropriated pursuant to the permit to obtain water from an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the designated area, only if:

(a) The distance from the property line of any parcel served by a well pursuant to a temporary permit to the pipes and other appurtenances of the proposed source of water to which the property will be connected is not more than 180 feet; and

(b) The well providing water pursuant to the temporary permit needs to be redrilled or have repairs made which require the use of a well-drilling rig.

5. The State Engineer may, in an area in which he has issued temporary permits pursuant to subsection 3, limit the depth of a domestic well pursuant to paragraph (c) of subsection 3 or prohibit repairs from being made to a well, and may require the person proposing to deepen or repair the well to obtain water from an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the designated area, only if:

(a) The distance from the property line of any parcel served by the well to the pipes and other appurtenances of the proposed source of water to which the property will be connected is not more than 180 feet; and

(b) The deepening or repair of the well would require the use of a well-drilling rig.

6. For good and sufficient reasons, the State Engineer may exempt the provisions of this section with respect to public housing authorities.

7. ~~[Nothing in this section prohibits]~~ *The provisions of this section do not prohibit* the State Engineer from revoking a temporary permit issued pursuant to this section if any parcel served by a well pursuant to the temporary permit is currently obtaining water from an entity such as a water district or a municipality engaged in furnishing water to the inhabitants of the area.

Sec. 4. NRS 534.180 is hereby amended to read as follows:

534.180 1. Except as otherwise provided in subsection 2 and as to the furnishing of any information required by the State Engineer, this chapter does not apply in the matter of obtaining permits for the development and use of underground water from a well for domestic purposes where the draught does not exceed ~~[a daily maximum of 1,800 gallons.]~~ *2 acre feet per year.*

2. The State Engineer may designate any groundwater basin or portion thereof as a basin in which the registration of a well is required if the well is drilled for the development and use of underground water for domestic purposes. A driller who drills such a well shall register the information required by the State Engineer within 10 days after the completion of the well. The State Engineer shall make available forms for the registration of such wells and shall maintain a register of those wells.

3. The State Engineer may require the plugging of such a well which is drilled on or after July 1, 1981, at any time not sooner than 1 year after water can be furnished to the site by:

(a) A political subdivision of this State; or

(b) A public utility whose rates and service are regulated by the Public Utilities Commission of Nevada,

➥ but only if the charge for making the connection to the service is less than $200.

4. If the development and use of underground water from a well for an accessory ~~[building]~~ dwelling unit of a single-family dwelling , as defined in an applicable local ordinance, qualifies as a domestic use or domestic purpose : ~~[pursuant to an applicable local ordinance:]~~

(a) The owner of the well shall:

(1) Obtain approval for that use or purpose from the local governing body or planning commission in whose jurisdiction the well is located;

(2) Install a water meter capable of measuring the total withdrawal of water from the well; and

(3) Ensure the total withdrawal of water from the well does not exceed 2 acre feet per year;

(b) The local governing body or planning commission shall report the ~~[withdrawal of water from the well]~~ approval of the accessory dwelling unit on a form provided by the State Engineer;

(c) The State Engineer shall monitor the annual withdrawal of water from the well; and

(d) The date of priority for the use of the domestic well to supply water to the accessory ~~[building]~~ dwelling unit is the date of approval of the accessory ~~[building]~~ dwelling unit by the local governing body or planning commission.

Sec. 5. NRS 534.185 is hereby amended to read as follows:

534.185 1. The State Engineer shall, upon written request and receipt of a written agreement between the affected property owners, waive the requirements of this chapter regarding permits for the use and development of underground water from a well if:

(a) The well existed on July 1, 1983;

(b) It is used solely for domestic purposes by not more than three single-family dwellings; and

(c) Each of those dwellings does not draw more than ~~[1,800 gallons]~~ *2 acre feet* of water ~~[in a day.]~~ *per year.*

2. The State Engineer may require an owner who has been granted such a waiver to apply for a permit if one or more of the dwellings is drawing more than ~~[1,800 gallons]~~ *2 acre feet* of water ~~[in a day.]~~ *per year.*

3. This section does not apply to any groundwater basin for which the State Engineer has in effect on July 1, 1983, a procedure of issuing revocable permits.

Sec. 6. NRS 534.350 is hereby amended to read as follows:

534.350 1. The State Engineer shall adopt regulations establishing a program that allows a public water system to receive credits, as provided in this section, for the addition of new customers to the system. The program must be limited to public water systems in areas:

(a) Designated as groundwater basins by the State Engineer pursuant to the provisions of NRS 534.030; and

(b) In which the State Engineer has denied one or more applications for any municipal uses of groundwater.

2. Before the State Engineer adopts any regulations pursuant to this section regarding any particular groundwater basin, he shall hold a public hearing:

(a) Within the basin to which the regulations will apply if adequate facilities to hold a hearing are available within that basin; or

(b) In all other cases, within the county where the major portion of that basin lies,

➥ to take testimony from any interested persons regarding the proposed regulations.

3. Upon adoption of the regulations required by this section regarding a particular groundwater basin, a public water system which provides service

in that basin is entitled to receive a credit for each customer who is added to the system after the adoption of those regulations and:

(a) Voluntarily ceases to draw water from a domestic well located within that basin; or

(b) Is the owner of a lot or other parcel of land, other than land used or intended solely for use as a location for a ~~[water]~~ *domestic* well, which:

(1) Is located within that basin;

(2) Was established as a separate lot or parcel before July 1, 1993;

(3) Was approved by a local governing body or planning commission for service by an individual domestic well before July 1, 1993; and

(4) Is subject to a written agreement which was voluntarily entered into by the owner with the public water system pursuant to which the owner agrees not to drill a domestic well on the land and the public water system agrees that it will provide water service to the land. Any such agreement must be acknowledged and recorded in the same manner as conveyances affecting real property are required to be acknowledged and recorded pursuant to chapter 111 of NRS.

4. *If a county requires, by ordinance, the dedication to the county of a right to appropriate water from a domestic well which is located on a lot or other parcel of land that was established as a separate lot or parcel on or after July 1, 1993, the county may, by relinquishment to the State Engineer, allow the right to appropriate water to revert to the source of the water. The State Engineer shall not accept a relinquishment of a right to appropriate water pursuant to this subsection unless the right is in good standing as determined by the State Engineer. A right to appropriate water that is dedicated and relinquished pursuant to this subsection:*

(a) Remains appurtenant only to the parcel of land in which it is located as specified on the parcel map ~~*[for the parcel of land;]*~~ *and*

(b) Maintains its date of priority established pursuant to NRS 534.080.

5. If an owner of a parcel of land specified in subsection 4 becomes a new customer of a public water system for that parcel of land, the public water system is entitled to receive a credit in the same manner as the addition of any other customer to the public water system pursuant to this section.

6. The State Engineer may require a new customer, who voluntarily ceases to draw water from a domestic well as provided in paragraph (a) of subsection 3 ~~[,]~~ *or whose right to appropriate water is dedicated pursuant to subsection 4,* to plug that well.

~~[5.]~~ *7.* A credit granted pursuant to this section:

(a) Must be sufficient to enable the public water system to add one service connection for a single-family dwelling to the system, except that the credit may not exceed the increase in water consumption attributable to the additional service connection or ~~[1,800 gallons per day,]~~ *2 acre feet per year,* whichever is less.

(b) May not be converted to an appropriative water right.

~~[6.]~~ *8.* This section does not:

(a) Require a public water system to extend its service area.

(b) Authorize any increase in the total amount of groundwater pumped in a groundwater basin.

(c) Affect any rights of an owner of a domestic well who does not voluntarily bring himself within the provisions of this section.

~~[7.]~~ *9.* As used in this section:

(a) "Domestic well" means a well used for culinary and household purposes in ~~[a]~~ *:*

(1) A single-family dwelling ~~[.]~~ *; and*

(2) An accessory ~~[building]~~ dwelling unit for a single-family dwelling if provided for in an applicable local ordinance,

➥ including the watering of a garden, lawn and domestic animals and where the draught does not exceed ~~[1,800 gallons per day.]~~ *2 acre feet per year.*

(b) "Public water system" has the meaning ascribed to it in NRS 445A.840.

Sec. 7. NRS 278.461 is hereby amended to read as follows:

278.461 1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into four lots or less shall:

(a) Prepare a parcel map and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its designated representative or, if there is no planning commission, with the clerk of the governing body; and

(b) Pay a filing fee in an amount determined by the governing body,

➥ unless ~~[these]~~ *those* requirements are waived or the provisions of NRS 278.471 to 278.4725, inclusive, apply. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

2. *In addition to any other requirement set forth in this section, a person who ~~[proposes to divide any land for transfer or development shall prepare and]~~ is required to prepare a parcel map pursuant to subsection 1 shall provide a copy of ~~[a]~~ the parcel map to the Division of Water Resources of the State Department of Conservation and Natural Resources and obtain a certificate from the Division indicating that the parcel map is approved as to the quantity of water available for use if:*

(a) Any parcel included in the parcel map:

(1) Is within or partially within a basin designated by the State Engineer pursuant to NRS 534.120 for which the State Engineer has issued an order requiring approval by him of the parcel map; and

(2) Will be served by a domestic well; and

(b) The dedication of a right to appropriate water to ensure a sufficient supply of water is not required by an applicable local ordinance.

3. If the parcel map is submitted to the clerk of the governing body, he shall submit the parcel map to the governing body at its next regular meeting.

~~[3.]~~ *4.* A common-interest community consisting of four units or less shall be deemed to be a division of land within the meaning of this section, but need only comply with this section and NRS 278.371, 278.373 to 278.378, inclusive, 278.462, 278.464 and 278.466.

~~[4.]~~ *5.* A parcel map is not required when the division is for the express purpose of:

(a) The creation or realignment of a public right-of-way by a public agency.

(b) The creation or realignment of an easement.

(c) An adjustment of the boundary line between two abutting parcels or the transfer of land between two owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.

(d) The purchase, transfer or development of space within an apartment building or an industrial or commercial building.

(e) Carrying out an order of any court or dividing land as a result of an operation of law.

~~[5.]~~ *6.* A parcel map is not required for any of the following transactions involving land:

(a) The creation of a lien, mortgage, deed of trust or any other security instrument.

(b) The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity.

(c) Conveying an interest in oil, gas, minerals or building materials, which is severed from the surface ownership of real property.

(d) Conveying an interest in land acquired by the Department of Transportation pursuant to chapter 408 of NRS.

(e) Filing a certificate of amendment pursuant to NRS 278.473.

~~[6.]~~ *7.* When two or more separate lots, parcels, sites, units or plots of land are purchased, they remain separate for the purposes of this section and NRS 278.468, 278.590 and 278.630. When the lots, parcels, sites, units or plots are resold or conveyed they are exempt from the provisions of NRS 278.010 to 278.630, inclusive, until further divided.

~~[7.]~~ *8.* Unless a method of dividing land is adopted for the purpose or would have the effect of evading this chapter, the provisions for the division of land by a parcel map do not apply to a transaction exempted by paragraph (c) of subsection 1 of NRS 278.320.

9. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 8. NRS 278.464 is hereby amended to read as follows:

278.464 1. Except as otherwise provided in subsection 2, if there is a planning commission, it shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after accepting as a complete application a parcel map, recommend approval, conditional approval or disapproval of the map in a written report. The planning commission shall submit the parcel map and the written report to the governing body.

2. If the governing body has authorized the planning commission to take final action on a parcel map, the planning commission shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after accepting as a complete application the parcel map, approve, conditionally approve or disapprove the map. The planning commission shall file its written decision with the governing body. Unless the time is extended by mutual agreement, if the planning commission is authorized to take final action and it fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

3. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or, by authorization of the governing body, the director of planning or other authorized person or agency shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after acceptance of the parcel map as a complete application by the governing body pursuant to subsection 1 or pursuant to subsection ~~[2]~~ *3* of NRS 278.461, review and approve, conditionally approve or disapprove the parcel map. Unless the time is extended by mutual agreement, if the governing body, the director of planning or other authorized person or agency fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

4. Except as otherwise provided in NRS 278.463, if unusual circumstances exist, a governing body or, if authorized by the governing body, the planning commission may waive the requirement for a parcel map. Before waiving the requirement for a parcel map, a determination must be made by the county surveyor, city surveyor or professional land surveyor appointed by the governing body that a survey is not required. Unless the time is extended by mutual agreement, a request for a waiver must be acted upon:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after the date of the request for the waiver or, in the absence of action, the waiver shall be deemed approved.

5. A governing body may consider or may, by ordinance, authorize the consideration of the criteria set forth in subsection 3 of NRS 278.349 in

determining whether to approve, conditionally approve or disapprove a second or subsequent parcel map for land that has been divided by a parcel map which was recorded within the 5 years immediately preceding the acceptance of the second or subsequent parcel map as a complete application.

6. An applicant or other person aggrieved by a decision of the governing body's authorized representative or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to
NRS 278.3195.

7. If a parcel map and the associated division of land are approved or deemed approved pursuant to this section, the approval must be noted on the map in the form of a certificate attached thereto and executed by the clerk of the governing body, the governing body's designated representative or the chairman of the planning commission. A certificate attached to a parcel map pursuant to this subsection must indicate, if applicable, that the governing body or planning commission determined that a public street, easement or utility easement which will not remain in effect after a merger and resubdivision of parcels conducted pursuant to NRS 278.4925 has been vacated or abandoned in accordance with NRS 278.480.

Sec. 8.5. NRS 278.466 is hereby amended to read as follows:

278.466 1. The parcel map must be legibly drawn in permanent black ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for that purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink. The size of each sheet must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom and right edges, and of 2 inches at the left edge along the 24-inch dimension.

2. A parcel map must indicate the owner of any adjoining land, or any right-of-way if owned by the person dividing the land.

3. A parcel map must show:

(a) The area of each parcel or lot and the total area of the land to be divided in the following manner:

(1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or

(2) In square feet if the area is less than 2 acres.

(b) All monuments found, set, reset, replaced or removed, describing their kind, size and location and giving other data relating thereto.

(c) Bearing or witness monuments, the basis of bearings, bearing and length of lines and the scale of the map.

(d) The name and legal designation of the tract or grant in which the survey is located and any ties to adjoining tracts.

(e) Any easements granted or dedications made.

(f) Any other data necessary for the intelligent interpretation of the various items and locations of the points, lines and area shown.

4. A parcel map must include:

(a) The memorandum of oaths described in NRS 625.320.

(b) The certificate of the surveyor required pursuant to NRS 278.375.

(c) The *certificate of the Division of Water Resources of the State Department of Conservation and Natural Resources issued pursuant to NRS 278.461, if any.*

(d) The signature of each owner of the land to be divided.

5. A governing body may by local ordinance require a parcel map to include:

(a) A report from a title company which lists the names of:

(1) Each owner of record of the land to be divided; and

(2) Each holder of record of a security interest in the land to be divided, ➥ if the security interest was created by a mortgage or a deed of trust.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a) to the preparation and recordation of the parcel map. A holder of record of a security interest may consent by signing:

(1) The parcel map; or

(2) A separate document that is recorded with the parcel map and declares his consent to the division of land, if the map contains a notation that a separate document has been recorded to this effect.

6. If the requirement for a parcel map is waived, the governing body may specify by local ordinance the type and extent of information or mapping necessary for the division of land.

7. Reference to the parcel number and recording data of a recorded parcel map is a complete legal description of the land contained in the parcel.

Sec. 9. NRS 278.5693 is hereby amended to read as follows:

278.5693 1. For a boundary line to be adjusted or for land to be transferred pursuant to paragraph (c) of subsection ~~[4]~~ *5* of NRS 278.461, a professional land surveyor must have performed a field survey, set monuments and filed a record of survey pursuant to NRS 625.340.

2. A record of survey filed pursuant to subsection 1 must contain:

(a) A certificate by the professional land surveyor who prepared the map stating that:

(1) He has performed a field survey sufficient to locate and identify properly the proposed boundary line adjustment;

(2) All corners and angle points of the adjusted boundary line have been defined by monuments or will be otherwise defined on a document of record as required by NRS 625.340; and

(3) The map is not in conflict with the provisions of NRS 278.010 to 278.630, inclusive.

(b) A certificate that is executed and acknowledged by each affected owner of the abutting parcels which states that:

(1) He has examined the plat and approves and authorizes the recordation thereof;

(2) He agrees to execute the required documents creating any easement which is shown;

(3) He agrees to execute the required documents abandoning any existing easement pursuant to the provisions of NRS 278.010 to 278.630, inclusive;

(4) All property taxes on the land for the fiscal year have been paid; and

(5) Any lender with an impound account for the payment of taxes has been notified of the adjustment of the boundary line or the transfer of the land.

(c) A certificate by the governing body or its designated representative approving the adjustment of the boundary line.

Sec. 10. This act becomes effective on ~~[July 1, 2007.]~~ *January 1, 2008.*

Senator Rhoads moved that the Senate concur in the Assembly amendment to Senate Bill No. 275.

Remarks by Senator Rhoads.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 279.

The following Assembly amendment was read:

Amendment No. 912.

"SUMMARY—Makes various changes concerning contractors and the State Contractors' Board. (BDR 54-624)"

"AN ACT relating to contractors; revising certain duties and powers of the State Contractors' Board; providing express authority for the Board to collect and maintain data and to conduct investigations; revising the procedures for applying for the issuance or renewal of a contractor's license; revising the term of a contractor's license from 1 year to 2 years in certain circumstances; revising certain fees and assessments to reflect such change in the term of a contractor's license; authorizing the Board to take certain actions against an unlicensed person who violates a provision governing contractors; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that chapter 624 of NRS, which governs contractors, does not apply, under certain circumstances, to an owner of a complex containing less than five condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer who performs certain maintenance and repairs to the property which are valued at less than $500. (NRS 624.031) Section 1 of this bill expands this exemption to include any maintenance and repairs which are valued at less than $1,000.

Existing law requires the State Contractors' Board to establish an Investigations Office that includes a Special Investigations Unit and a Compliance Investigations Unit. (NRS 624.112) Section 2 of this bill

eliminates the requirement to include those two specific units within the Investigations Office.

Existing law authorizes the Board to require criminal investigators who are employed by the Board to locate and identify certain persons who violate a provision of chapter 624 of NRS or any regulations adopted by the Board. (NRS 624.115) Section 3 of this bill authorizes the Board also to require compliance investigators who are employed by the Board to locate and identify such persons.

Existing law authorizes the Board to undertake all functions and duties related to the administration of chapter 624 of NRS. (NRS 624.160) Section 4 of this bill provides express authority for the Board to collect and maintain data regarding investigations and complaints on contractors and to conduct investigations of contractors.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit a written application to the Board that includes, without limitation, the names and addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant. (NRS 624.250) Section 5 of this bill revises this requirement for applicants that are corporations or limited-liability companies. Section 5 also requires the Board to require an applicant to pay the license fee and any applicable assessments before the Board issues a license to the applicant.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit to the Board proof of industrial insurance and insurance for occupational diseases, proof of self-insurance or a signed affidavit affirming that the applicant is not subject to the statutes governing industrial insurance and occupational insurance because of certain specified circumstances. (NRS 624.256) Section 6 of this bill provides that failure of such an applicant or licensee to file or maintain such insurance constitutes cause for the Board to take certain administrative actions against the person unless the person provides to the Board the affidavit discussed above.

Existing law requires an applicant for a contractor's license or a licensee to show such a degree of financial responsibility as the Board deems necessary for the safety and protection of the public. (NRS 624.260) Existing law also requires that the financial responsibility be determined by using certain standards and criteria set forth in statute. (NRS 624.263) Section 7 of this bill expands those standards and criteria and authorizes, rather than requires, these standards and criteria to be used in determining the financial responsibility of an applicant or licensee.

Section 9 of this bill revises the existing fee for a contractor's license from $450 annually to $900 biennially. (NRS 624.283)

Section 10 of this bill revises the existing term of a contractor's license from 1 year to 2 years and authorizes the Board to establish a system of staggered biennial renewals. Section 20 of this bill provides that the provisions of section 10 do not apply to an existing contractor's license until

the first renewal date for the license that occurs after the effective date of this bill.

Existing law authorizes the Board or its designee to issue administrative citations and to take action against an applicant for a contractor's license or a licensee who commits an act which constitutes cause for disciplinary action. (NRS 624.341) Section 12 of this bill authorizes the Board or its designee to issue such citations and to take such action against any person who violates a provision of chapter 624 of NRS or any regulations adopted by the Board. Section 12 also specifies that any administrative fine ordered in the citation must not exceed $50,000 under certain circumstances. Further, section 12 provides that it is a misdemeanor for an unlicensed person to fail to comply with such a citation or order issued by the Board pursuant to NRS 624.341. Sections 13, 14 and 15 of this bill similarly amend existing law to reflect the expanded scope of the administrative citations and actions. (NRS 624.345, 624.351, 624.361)

Section 16 of this bill revises the existing assessments which are required to be paid by each residential contractor on an annual basis by doubling the amounts of the assessments and requiring such assessments to be paid per biennium. (NRS 624.470)

Existing law authorizes the Board to impose an administrative fine upon an unlicensed person who engages in business as a contractor or submits a bid on a job in this State. (NRS 624.710) Section 17 of this bill further authorizes the Board to impose an administrative fine on a person who violates certain provisions governing advertising concerning contractors or certain provisions governing the ability of licensees to participate in joint ventures or other combinations. (NRS 624.720, 624.740)

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

Section 1. NRS 624.031 is hereby amended to read as follows:

624.031 The provisions of this chapter do not apply to:

1. Work performed exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State.

2. An officer of a court when acting within the scope of his office.

3. Work performed exclusively by a public utility operating pursuant to the regulations of the Public Utilities Commission of Nevada on construction, maintenance and development work incidental to its business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale or lease. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the

Board for the exemption. The Board shall adopt regulations setting forth the requirements for granting the exemption.

5. ~~[An owner of a complex containing not more than four condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer, who performs]~~ *Any* work to repair or maintain ~~[that]~~ property the value of which is less than ~~[$500,]~~ *$1,000,* including labor and materials, unless:

(a) A building permit is required to perform the work;

(b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;

(c) The work is of a type performed by a contractor licensed in a classification prescribed by the Board that significantly affects the health, safety and welfare of members of the general public;

(d) The work is performed as a part of a larger project:

(1) The value of which is $500 or more; or

(2) For which contracts of less than $500 have been awarded to evade the provisions of this chapter; or

(e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of that person.

6. The sale or installation of any finished product, material or article of merchandise which is not fabricated into and does not become a permanent fixed part of the structure.

7. The construction, alteration, improvement or repair of personal property.

8. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and conducted within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

9. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his use or occupancy and not intended for sale or lease.

Sec. 2. NRS 624.112 is hereby amended to read as follows:

624.112 1. The Board shall:

(a) Establish an Investigations Office to enforce the provisions of this chapter. The Investigations Office must ~~[include a Special Investigations Unit consisting]~~ *consist* of criminal investigators and ~~[a Compliance Investigations Unit consisting of]~~ compliance investigators.

(b) Adopt regulations setting forth the qualifications required for investigators employed to carry out this section.

2. As used in this section, "criminal investigator" means a person authorized to perform the duties set forth in subsection 2 of NRS 624.115.

Sec. 3. NRS 624.115 is hereby amended to read as follows:

624.115 1. The Board may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

2. The Board may require criminal investigators who are employed by the Board pursuant to NRS 624.112 to:

(a) Conduct a background investigation of:

(1) A licensee or an applicant for a contractor's license; or

(2) An applicant for employment with the Board;

(b) Locate and identify persons who:

(1) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(2) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(3) Otherwise violate the provisions of this chapter or the regulations adopted pursuant to this chapter;

(c) Investigate any alleged occurrence of constructional fraud; and

(d) Issue a misdemeanor citation prepared manually or electronically pursuant to NRS 171.1773 to a person who violates a provision of this chapter that is punishable as a misdemeanor. A criminal investigator may request any constable, sheriff or other peace officer to assist him in the issuance of such a citation.

3. The Board may require compliance investigators who are employed by the Board pursuant to NRS 624.112 to locate and identify persons who:

(a) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(b) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(c) Otherwise violate the provisions of this chapter or the regulations adopted pursuant thereto.

Sec. 4. NRS 624.160 is hereby amended to read as follows:

624.160 1. The Board is vested with all of the functions and duties relating to the administration of this chapter.

2. The Board shall:

(a) Carry out a program of education for customers of contractors.

(b) Maintain and make known a telephone number for the public to obtain information about self-protection from fraud in construction and other information concerning contractors and contracting.

(c) Collect and maintain records, reports and compilations of statistical data concerning investigations and complaints.

3. The Board may provide advisory opinions and take other actions that are necessary for the effective administration of this chapter and the regulations of the Board.

4. The Board may, on its own motion, and shall, upon receipt of a written complaint or upon receipt of information from a governmental agency, investigate the actions of any person acting in the capacity of a contractor, with or without a license.

Sec. 5. NRS 624.250 is hereby amended to read as follows:

624.250 1. To obtain or renew a license, an applicant must submit to the Board an application in writing containing:

(a) The statement that the applicant desires the issuance of a license under the terms of this chapter.

(b) The street address or other physical location of the applicant's place of business.

(c) The name of a person physically located in this State for service of process on the applicant.

(d) The street address or other physical location in this State and, if different, the mailing address, for service of process on the applicant.

(e) ~~[The]~~ *Except as otherwise provided in paragraphs (f) or (g), the* names and physical and mailing addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant.

(f) *If the applicant is a corporation, the names and physical and mailing addresses of the president, secretary, treasurer, any officers responsible for contracting activities in this State, any officers responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.*

(g) If the applicant is a limited-liability company, the names and physical and mailing addresses of any managers or members with managing authority, any managers or members responsible for contracting activities in this State, any managers or members responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.

(h) Any information requested by the Board to ascertain the background, financial responsibility, experience, knowledge and qualifications of the applicant.

~~[(g)]~~ *(i)* All information required to complete the application.

2. The application must be:

(a) Made on a form prescribed by the Board in accordance with the rules and regulations adopted by the Board.

(b) Accompanied by the *application* fee fixed by this chapter.

3. The Board shall include on an application form for the issuance or renewal of a license, a method for allowing an applicant to make a monetary contribution to the Construction Education Account created pursuant to NRS 624.580. The application form must state in a clear and conspicuous manner that a contribution to the Construction Education Account is voluntary and is in addition to any fees required for licensure. If the Board receives a contribution from an applicant, the Board shall deposit the contribution with the State Treasurer for credit to the Construction Education Account.

4. Before issuing a license to any applicant, the Board shall require the applicant to pay the license fee fixed by this chapter and, if applicable, any assessment required pursuant to NRS 624.470.

Sec. 6. NRS 624.256 is hereby amended to read as follows:

624.256 1. Before granting an original or renewal of a contractor's license to any applicant, the Board shall require that the applicant submit to the Board:

(a) Proof of industrial insurance and insurance for occupational diseases which covers his employees;

(b) A copy of his certificate of qualification as a self-insured employer which was issued by the Commissioner of Insurance;

(c) If the applicant is a member of an association of self-insured public or private employers, a copy of the certificate issued to the association by the Commissioner of Insurance; or

(d) An affidavit signed by the applicant affirming that he is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS because:

(1) He has no employees;

(2) He is not or does not intend to be a subcontractor for a principal contractor; and

(3) He has not or does not intend to submit a bid on a job for a principal contractor or subcontractor.

2. The Board shall notify the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420 whenever the Board learns that an applicant or holder of a contractor's license has engaged in business as or acted in the capacity of a contractor within this State without having obtained industrial insurance or insurance for occupational diseases in violation of the provisions of chapters 616A to 617, inclusive, of NRS.

3. Failure by an applicant or holder of a contractor's license to file or maintain in full force the required industrial insurance and insurance for occupational diseases constitutes cause for the Board to deny, revoke, suspend, refuse to renew or otherwise discipline the person, unless the person has complied with the provisions set forth in paragraph (d) of subsection 1.

Sec. 7. NRS 624.263 is hereby amended to read as follows:

624.263 1. The financial responsibility of a licensee or an applicant for a contractor's license must be established independently of and without reliance on any assets or guarantees of any owners or managing officers of the licensee or applicant, but the financial responsibility of any owners or managing officers of the licensee or applicant may be inquired into and considered as a criterion in determining the financial responsibility of the licensee or applicant.

2. The financial responsibility of an applicant for a contractor's license or of a licensed contractor ~~[must]~~ *may* be determined by using the following standards and criteria in connection with each applicant or contractor and each associate or partner thereof:

(a) ~~[Net]~~ *Amount of net* worth.

(b) Amount of liquid assets.

(c) *Amount of current assets.*

(d) Amount of current liabilities.

(e) Amount of working capital.

(f) Ratio of current assets to current liabilities.

(g) Fulfillment of bonding requirements pursuant to NRS 624.270.

(h) Prior payment and credit records.

~~[(d)]~~ *(i)* Previous business experience.

~~[(e)]~~ *(j)* Prior and pending lawsuits.

~~[(f)]~~ *(k)* Prior and pending liens.

~~[(g)]~~ *(l)* Adverse judgments.

~~[(h)]~~ *(m)* Conviction of a felony or crime involving moral turpitude.

~~[(i)]~~ *(n)* Prior suspension or revocation of a contractor's license in Nevada or elsewhere.

~~[(j)]~~ *(o)* An adjudication of bankruptcy or any other proceeding under the federal bankruptcy laws, including:

(1) A composition, arrangement or reorganization proceeding;

(2) The appointment of a receiver of the property of the applicant or contractor or any officer, director, associate or partner thereof under the laws of this State or the United States; or

(3) The making of an assignment for the benefit of creditors.

~~[(k)]~~ *(p)* Form of business organization, corporate or otherwise.

~~[(l)]~~ *(q)* Information obtained from confidential financial references and credit reports.

~~[(m)]~~ *(r)* Reputation for honesty and integrity of the applicant or contractor or any officer, director, associate or partner thereof.

3. A licensed contractor shall, as soon as it is reasonably practicable, notify the Board in writing upon the filing of a petition or application relating to the contractor that initiates any proceeding, appointment or assignment set forth in paragraph ~~[(j)]~~ *(o)* of subsection 2. The written notice must be accompanied by:

(a) A copy of the petition or application filed with the court; and

(b) A copy of any order of the court which is relevant to the financial responsibility of the contractor, including any order appointing a trustee, receiver or assignee.

4. Before issuing a license to an applicant who will engage in residential construction or renewing the license of a contractor who engages in residential construction, the Board may require the applicant or licensee to establish his financial responsibility by submitting to the Board:

(a) A financial statement that is:

(1) Prepared by a certified public accountant; or

(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and

(b) A statement setting forth the number of building permits issued to and construction projects completed by the licensee during the immediately preceding year and any other information required by the Board. The

statement submitted pursuant to this paragraph must be provided on a form approved by the Board.

5. In addition to the requirements set forth in subsection 4, the Board may require a licensee to establish his financial responsibility at any time.

6. An applicant for an initial contractor's license or a licensee applying for the renewal of a contractor's license has the burden of demonstrating his financial responsibility to the Board, if the Board requests him to do so.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 624.280 is hereby amended to read as follows:

624.280 The Board may adopt regulations fixing the fee for an application, the fee for an examination and the ~~[annual]~~ fee for a license to be paid by applicants and licensees. Except as otherwise provided in NRS 624.281, the fee for:

1. An application must not exceed $550.

2. A license must not exceed ~~[$450 annually.]~~ *$900 biennially.*

3. An examination must not exceed $300.

Sec. 10. NRS 624.283 is hereby amended to read as follows:

624.283 1. Each license issued under the provisions of this chapter expires ~~[1 year]~~ *2 years* after the date on which it is issued, except that the Board may by regulation prescribe shorter or longer periods and prorated fees to establish a system of staggered *biennial* renewals. Any license which is not renewed on or before the date for renewal is automatically suspended.

2. A license may be renewed by submitting to the Board:

(a) An application for renewal;

(b) The fee for renewal fixed by the Board;

(c) Any assessment required pursuant to NRS 624.470 if the holder of the license is a residential contractor as defined in NRS 624.450; and

(d) All information required to complete the renewal.

3. The Board may require a licensee to demonstrate his financial responsibility at any time through the submission of:

(a) A financial statement that is:

(1) Prepared by an independent certified public accountant; or

(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and

(b) If the licensee performs residential construction, such additional documentation as the Board deems appropriate.

4. If a license is automatically suspended pursuant to subsection 1, the licensee may have his license reinstated upon filing an application for renewal within 6 months after the date of suspension and paying, in addition to the fee for renewal, a fee for reinstatement fixed by the Board, if he is otherwise in good standing and there are no complaints pending against him. If he is otherwise not in good standing or there is a complaint pending, the Board shall require him to provide a current financial statement prepared by an independent certified public accountant or establish other conditions for reinstatement. An application for renewal must be accompanied by all

information required to complete the renewal. A license which is not reinstated within 6 months after it is automatically suspended may be cancelled by the Board, and a new license may be issued only upon application for an original contractor's license.

Sec. 11. (Deleted by amendment.)

Sec. 11.5. *NRS 624.327 is hereby amended to read as follows:*

624.327 1. Except as otherwise provided in this section, *the existence of and the personally identifying information in* a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of the investigation conducted to determine whether to initiate disciplinary action are confidential.

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

Sec. 11.7. *NRS 624.331 is hereby amended to read as follows:*

624.331 *1.* A complaint against a licensee for the commission of any act or omission that constitutes cause for disciplinary action pursuant to NRS 624.300 must be filed in writing with the Board within 4 years after the act or omission.

2. The Board shall, within 2 years after the date on which the complaint is filed, initiate disciplinary action against the licensee or dismiss the complaint.

Sec. 12. NRS 624.341 is hereby amended to read as follows:

624.341 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a ~~[licensee or applicant for a contractor's license]~~ *person* has committed an act which constitutes a ~~[cause for disciplinary action pursuant to NRS 624.300,]~~ *violation of this chapter or the regulations of the Board,* the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the ~~[licensee or applicant.]~~ *person.* A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action, at the licensee's or applicant's cost;]~~ *violation of this chapter or the regulations of the Board, at the person's cost;*

(b) An order to pay an administrative fine ~~[;]~~ *not to exceed $50,000, except as otherwise provided in subsection 1 of NRS 624.300;* and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate the complaint.

2. If a written citation issued pursuant to subsection 1 includes an order to take action to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action,]~~ *violation of this chapter or the regulations of the Board,* the citation must state the time permitted for compliance, which must be not less than 15 business days after the date the ~~[licensee or~~

~~applicant~~] *person* receives the citation, and specifically describe the action required to be taken.

3. The sanctions authorized by subsection 1 are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

4. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 13. NRS 624.345 is hereby amended to read as follows:

624.345 1. A ~~[licensee or applicant for a contractor's license]~~ *person* who is issued a written citation pursuant to NRS 624.341 may contest the citation within 15 business days after the date on which the citation is served on the ~~[licensee or applicant.]~~ *person.*

2. A ~~[licensee or applicant for a contractor's license]~~ *person* may contest, without limitation:

(a) The facts forming the basis for the determination that the ~~[licensee or applicant]~~ *person* has committed an act which constitutes a ~~[cause for disciplinary action;]~~ *violation of this chapter or the regulations of the Board;*

(b) The time allowed to take any corrective action ordered;

(c) The amount of any administrative fine ordered;

(d) The amount of any order to reimburse the Board for the expenses incurred to investigate the ~~[licensee or applicant;]~~ *person;* and

(e) Whether any corrective action described in the citation is reasonable.

3. If a ~~[licensee or applicant for a contractor's license]~~ *person* does not contest a citation issued pursuant to NRS 624.341 within 15 business days after the date on which the citation is served on the ~~[licensee or applicant,]~~ *person,* or on or before such later date as specified by the Board pursuant to subsection 4, the citation shall be deemed a final order of the Board and not subject to review by any court or agency.

4. The Board may, for good cause shown, extend the time to contest a citation issued pursuant to NRS 624.341.

5. For the purposes of this section, a citation shall be deemed to have been served on a ~~[licensee or an applicant]~~ *person* on:

(a) The date on which the citation is personally delivered to the ~~[licensee or applicant;]~~ *person;* or

(b) If the citation is mailed, the date on which the citation is mailed by certified mail to the last known business or residential address of the ~~[licensee or applicant.]~~ *person.*

Sec. 14. NRS 624.351 is hereby amended to read as follows:

624.351 If a ~~[licensee or applicant for a contractor's license]~~ *person* contests a citation issued pursuant to NRS 624.341 or order to correct a violation of the provisions of this chapter within 15 business days after he receives the citation or order, or on or before such later date as specified by

the Board pursuant to subsection 4 of NRS 624.345, the Board shall hold a hearing pursuant to NRS 624.291.

Sec. 15. NRS 624.361 is hereby amended to read as follows:

624.361 The Board shall adopt regulations concerning the:

1. Form of a written citation issued pursuant to NRS 624.341;

2. Time required for a ~~[licensee or applicant for a license]~~ *person* to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action]~~ *violation of this chapter or the regulations of the Board* if he is so ordered pursuant to NRS 624.341; and

3. Imposition of an administrative fine pursuant to the provisions of this chapter. The Board ~~[must]~~ *shall* consider:

(a) The gravity of the violation;

(b) The good faith of the ~~[licensee;]~~ *person;* and

(c) Any history of previous violations of the provisions of this chapter by the ~~[licensee.]~~ *person.*

Sec. 16. NRS 624.470 is hereby amended to read as follows:

624.470 1. Except as otherwise provided in subsection 3, in addition to the ~~[annual]~~ fee for a license required pursuant to NRS 624.280, a residential contractor shall pay to the Board an ~~[annual]~~ assessment not to exceed the following amount, if the monetary limit on his license is:

Not more than $1,000,000..... ~~[$100]~~ *$200 per biennium*

More than $1,000,000 but limited..... ~~[250]~~ *500 per biennium*

Unlimited..... ~~[500]~~ *1,000 per biennium*

2. The Board shall administer and account separately for the money received from the ~~[annual]~~ assessments collected pursuant to subsection 1. The Board may refer to the money in the account as the "Recovery Fund."

3. The Board shall reduce the amount of the assessments collected pursuant to subsection 1 when the balance in the account reaches 150 percent of the largest balance in the account during the previous fiscal year.

4. Except as otherwise provided in NRS 624.540, the money in the account must be used to pay claims made by owners who are damaged by the failure of a residential contractor to perform qualified services adequately, as provided in NRS 624.400 to 624.560, inclusive.

Sec. 17. NRS 624.710 is hereby amended to read as follows:

624.710 1. If any person violates the provisions of subsection 1 of NRS 624.700, *subsections 1, 2 or 3 of NRS 624.720 or NRS 624.740,* the Board may impose for each violation an administrative fine in an amount that is not less than $1,000 and not more than $50,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the person; and

(c) Any history of previous violations of the provisions of this chapter *or the regulations of the Board* committed by the person.

3. An administrative fine imposed pursuant to this section is in addition to any other penalty imposed pursuant to this chapter.

4. If the administrative fine and any interest imposed pursuant to NRS 624.300 is not paid when due, the fine and interest, if any, must be recovered in a civil action brought by the Attorney General on behalf of the Board.

5. All administrative fines and interest collected pursuant to this section must be deposited with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 18. NRS 338.1389 is hereby amended to read as follows:

338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds $250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a responsive and responsible contractor who:

(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382; and

(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits his bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,

➥ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the ~~[annual]~~ renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed the best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with

the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 19. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds $250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative; and

(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,

➥ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the ~~[annual]~~ renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed a best bid only if

both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.

14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

Sec. 20. The amendatory provisions of section 10 of this act do not apply to a license issued pursuant to chapter 624 of NRS before the effective date of this act until the first renewal date for the license after the effective date of this act.

Sec. 21. This act becomes effective upon passage and approval.

Senator Townsend moved that the Senate concur in the Assembly amendment to Senate Bill No. 279.

Remarks by Senators Townsend and Hardy

Senator Hardy requested that his remarks be entered in the Journal.

Thank you, Mr. President. I stand in support of the motion to concur. There was a lot of attention given to the fact I had some objections with this bill when it came out do to the fact it would have created a new circumstance for disclosure for this board that does not exist for any other board.

We worked diligently, as a committee, and ran out of time in this House to try to find a way to accommodate the due process and the privacy of contractors and, at the same time, afford protection that is desperately needed to the consumer. The Assembly amendment has struck that

balance. I would like to thank my colleagues in the other House for taking the time, necessary, to consider all of the circumstances surrounding this. I think the product they have come up with is very good.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 143.

The following Assembly amendments were read:

Amendment No. 820.

"SUMMARY—Revises provisions governing pupils and parents. (BDR 34-415)"

"AN ACT relating to education; authorizing teachers in elementary schools to provide reports to parents and legal guardians of pupils under certain circumstances; requiring support teams established for certain schools to review certain information; establishing an interim Advisory Council on Parental Involvement; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The statewide system of accountability for public schools requires that public schools be designated each year based upon adequate yearly progress. (NRS 385.3623) A support team must be established for each public school that is designated as demonstrating need for improvement for 3 consecutive years or more. (NRS 385.3721) Each support team is required to review certain information pertaining to the school and revise the school's plan to improve accordingly. (NRS 385.3741) Section 1 of this bill requires the support team to review information provided to the support team concerning educational involvement accords and reports provided to parents and legal guardians by elementary school teachers.

Section 2 of this bill authorizes a teacher in an elementary school to provide to each parent and legal guardian of a pupil enrolled in the school, on a form prescribed by the Department of Education, a report containing certain information about the pupil and the involvement of the parent or legal guardian in the education of his child. Aggregate information concerning any completed reports must be provided to the support team established for the school, if a support team has been established.

Under existing law, each public school is required to provide to each parent or legal guardian of a pupil an educational involvement accord. The accord provides information concerning the responsibilities of the parent or legal guardian, the pupil and the school in the education of the pupil. (NRS 392.4575) Section 3 of this bill requires principals of schools designated as demonstrating need for improvement for 3 consecutive years or more to provide aggregate information concerning the accords to the support team established for the school.

Under existing law, each classroom teacher is required to provide the code of honor relating to cheating to the parent or legal guardian of each pupil enrolled in his class as part of the educational involvement accord.

(NRS 392.4575) Section 4 of this bill requires provision of the code of honor relating to cheating to the pupil as well as his parent or legal guardian for their signature on that document. (NRS 392.461)

Sections 5 and 6 of this bill establish an interim Advisory Council on Parental Involvement to study issues relating to parental involvement in education.

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

Section 1. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) *Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to section 2 of this act.*

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

~~[(e)]~~ *(f)* Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

~~[(f)]~~ *(g)* Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the State Board, the support team shall make the recommendations to the State Board and the Department.

~~[(g)]~~ *(h)* In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the ~~[names]~~ *name* and duties of each person who is responsible for carrying out the revisions.

~~[(h)]~~ *(i)* Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school.

~~[(i)]~~ *(j)* Prepare a monthly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

~~[(j)]~~ *(k)* In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise monthly progress report for use by each support team in accordance with paragraph ~~[(i)]~~ *(j)* of subsection 1.

Sec. 2. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall:

(a) Prescribe a form for use by teachers in elementary schools to provide reports to parents and legal guardians of pupils pursuant to this section;

(b) Work in consultation with the Legislative Bureau of Educational Accountability and Program Evaluation, the Nevada Association of School Boards, the Nevada Association of School Administrators, the Nevada State Education Association and the Nevada Parent Teacher Association in the development of the form; and

(c) Make the form available in electronic format for use by school districts and charter schools and, upon request, in any other manner deemed reasonable by the Department.

2. The form must include, without limitation:

(a) A notice to parents and legal guardians that parental involvement is important in ensuring the success of the academic achievement of pupils;

(b) A checklist indicating whether:

(1) The pupil completes his homework assignments in a timely manner;

(2) The pupil is present in the classroom when school begins each day and is present for the entire school day unless his absence is approved in accordance with NRS 392.130;

(3) The parent or legal guardian and the pupil abide by any applicable rules and policies of the school and the school district; and

(4) The pupil complies with the dress code for the school, if applicable; and

(c) A list of the resources and services available within the community to assist parents and legal guardians in addressing any issues identified on the checklist.

3. In addition to the requirements of subsection 2, the Department may prescribe additional information for inclusion on the form, including, without limitation:

(a) A report of the participation of the parent or legal guardian, including, without limitation, whether the parent or legal guardian:

(1) Completes forms and other documents that are required by the school or school district in a timely manner;

(2) Assists in carrying out a plan to improve the pupil's academic achievement, if applicable;

(3) Attends conferences between the teacher and the parent or legal guardian, if applicable; and

(4) Attends school activities.

(b) A report of whether the parent or legal guardian ensures the health and safety of the pupil, including, without limitation, whether:

(1) Current information is on file with the school that designates each person whom the school should contact if an emergency involving the pupil occurs; and

(2) Current information is on file with the school regarding the health and safety of the pupil, such as immunization records, if applicable, and any special medical needs of the pupil.

4. A teacher at an elementary school may provide the form prescribed by the Department, including the additional information prescribed pursuant to subsection 3 if the Department has prescribed such information on the form, to a parent or legal guardian of a pupil if the teacher determines that the provision of such a report would assist in improving the academic achievement of the pupil.

5. A report provided to a parent or legal guardian pursuant to this section must not be used in a manner that:

(a) Interferes unreasonably with the personal privacy of the parent or legal guardian or the pupil;

(b) Reprimands the parent or legal guardian; or

(c) Affects the grade or report of progress given to a pupil based upon the information contained in the report.

6. The principal of each elementary school at which a teacher provides reports pursuant to this section shall provide to the support team established for the school pursuant to NRS 385.3721, if applicable, the information contained in the completed reports for consideration by the support team. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 3. NRS 392.4575 is hereby amended to read as follows:

392.4575 1. The Department shall prescribe a form for educational involvement accords to be used by all public schools in this State. The educational involvement accord must comply with the parental involvement policy:

(a) Required by the federal No Child Left Behind Act of 2001, as set forth in 20 U.S.C. § 6318.

(b) Adopted by the State Board pursuant to NRS 392.457.

2. Each educational involvement accord must include, without limitation:

(a) A description of how the parent or legal guardian will be involved in the education of the pupil, including, without limitation:

(1) Reading to the pupil, as applicable for the grade or reading level of the pupil;

(2) Reviewing and checking the pupil's homework; and

(3) Contributing 5 hours of time each school year, including, without limitation, by attending school-related activities, parent-teacher association meetings, parent-teacher conferences, volunteering at the school and chaperoning school-sponsored activities.

(b) The responsibilities of a pupil in a public school, including, without limitation:

(1) Reading each day before or after school, as applicable for the grade or reading level of the pupil;

(2) Using all school equipment and property appropriately and safely;

(3) Following the directions of any adult member of the staff of the school;

(4) Completing and submitting homework in a timely manner; and

(5) Respecting himself, others and all property.

(c) The responsibilities of a public school and the administrators, teachers and other personnel employed at a school, including, without limitation:

(1) Ensuring that each pupil is provided proper instruction, supervision and interaction;

(2) Maximizing the educational and social experience of each pupil;

(3) Carrying out the professional responsibility of educators to seek the best interest of each pupil; and

(4) Making staff available to the parents and legal guardians of pupils to discuss the concerns of parents and legal guardians regarding the pupils.

3. Each educational involvement accord must be accompanied by, without limitation:

(a) Information describing how the parent or legal guardian may contact the pupil's teacher and the principal of the school in which the pupil is enrolled;

(b) The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;

(c) The homework and grading policies of the pupil's teacher or school;

(d) Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;

(e) Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;

(f) The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;

(g) The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;

(h) The classroom rules and policies;

(i) The dress code of the school, if any;

(j) The availability of assistance to parents who have limited proficiency in the English language;

(k) Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;

(l) Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and

(m) The code of honor relating to cheating prescribed pursuant to NRS 392.461.

4. The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:

(a) Distribute the educational involvement accord to the parent or legal guardian of each pupil in his class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and

(b) Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord.

5. Except as otherwise provided in this subsection, the board of trustees of each school district shall ensure that the form prescribed by the Department is used for the educational involvement accord of each public school in the school district. The board of trustees of a school district may authorize the use of an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

6. The Department and the board of trustees of each school district shall, at least once each year, review and amend their respective educational involvement accords.

7. If an elementary school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years or more, the principal of the school shall provide to the support team established for the school pursuant to NRS 385.3721 information concerning the distribution of the educational involvement accord and the number of accords which were signed and returned by parents and legal guardians. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 4. NRS 392.461 is hereby amended to read as follows:

392.461 1. The Department shall prescribe by regulation a written policy that establishes a code of honor for pupils relating to cheating on examinations and course work. The policy must be developed in consultation with the boards of trustees of school districts, the governing bodies of charter schools, educational personnel employed by school districts and charter schools, and local associations and organizations of parents whose children are enrolled in public schools throughout this State.

2. The policy must include, without limitation, a definition of cheating that clearly and concisely informs pupils which acts constitute cheating for purposes of the code of honor.

3. On or before July 1 of each year, the Department shall:

(a) Provide a copy of the code of honor to the board of trustees of each school district and the governing body of each charter school.

(b) Review and amend the code of honor as necessary.

4. Copies of the code of honor must be made available for inspection at each public school located within a school district, including, without limitation, each charter school, in an area on the grounds of the school that is open to the public.

5. Each classroom teacher shall:

(a) Distribute the code of honor to each pupil enrolled in his class and to the parent or legal guardian of each pupil enrolled in his class at the beginning of each school year or upon a pupil's enrollment in his class, as applicable;

(b) Provide the pupil and the parent or legal guardian of the pupil with a reasonable opportunity to sign the code of honor; and

(c) If the code of honor is returned with the signatures, retain a copy of the signed code of honor in the pupil's file.

Sec. 5. 1. The Superintendent of Public Instruction shall establish an Advisory Council on Parental Involvement. All appointments to the Advisory Council must be made on or before September 1, 2007.

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; and

(f) One member of the board of trustees of a school district in a county whose population is less than 100,000.

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

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

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

5. The Advisory Council shall elect a Chairman and a Vice Chairman from among its members.

6. The Department of Education 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.

7. 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, he 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 and employees generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

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

8. 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 he 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 nonlegislative members of the Advisory Council must be paid by the Department of Education.

Sec. 6. The Advisory Council on Parental Involvement established pursuant to section 5 of this act shall:

1. Review the policy of parental involvement adopted by the State Board of Education and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347;

3. Review any effective practices carried out in individual school districts in this State to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to effectively communicate and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to effectively communicate with and provide outreach to parents and legal guardians of pupils who are limited English proficient, as defined in NRS 385.007;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before August 1, 2008, submit a preliminary written report to the Legislative Committee on Education; and

10. On or before February 1, 2009, submit a final written report of its findings and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Sec. 7. On or before September 1, 2007, the Department of Education shall prescribe a form in accordance with section 2 of this act for use commencing with the 2007-2008 school year by teachers in elementary schools.

Sec. 8. 1. This act becomes effective on July 1, 2007.

2. Sections 5 and 6 of this act expire by limitation on June 30, 2009.

Amendment No. 933.

"SUMMARY—Revises provisions governing pupils and parents. (BDR 34-415)"

"AN ACT relating to education; *establishing an Advisory Council on Parental Involvement;* authorizing teachers in elementary schools to provide reports to parents and legal guardians of pupils under certain circumstances; requiring support teams established for certain schools to review certain information; ~~[establishing an interim Advisory Council on Parental Involvement;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2-4 of this bill establish an Advisory Council on Parental Involvement and prescribe the membership and duties of the Advisory Council.

The statewide system of accountability for public schools requires that public schools be designated each year based upon adequate yearly progress. (NRS 385.3623) A support team must be established for each public school that is designated as demonstrating need for improvement for 3 consecutive years or more. (NRS 385.3721) Each support team is required to review certain information pertaining to the school and revise the school's plan to improve accordingly. (NRS 385.3741) Section ~~[1]~~ *5* of this bill requires the support team to review information provided to the support team concerning educational involvement accords and reports provided to parents and legal guardians by elementary school teachers.

Section ~~[2]~~ *6* of this bill authorizes a teacher in an elementary school to provide to each parent and legal guardian of a pupil enrolled in the school, on a form prescribed by the Department of Education, a report containing certain information about the pupil and the involvement of the parent or legal guardian in the education of his child. Aggregate information concerning any completed reports must be provided to the support team established for the school, if a support team has been established.

Under existing law, each public school is required to provide to each parent or legal guardian of a pupil an educational involvement accord. The accord provides information concerning the responsibilities of the parent or legal guardian, the pupil and the school in the education of the pupil. (NRS 392.4575) Section ~~[3]~~ *7* of this bill requires principals of schools designated as demonstrating need for improvement for 3 consecutive years or more to provide aggregate information concerning the accords to the support team established for the school.

Under existing law, each classroom teacher is required to provide the code of honor relating to cheating to the parent or legal guardian of each pupil enrolled in his class as part of the educational involvement accord. (NRS 392.4575) Section ~~[4]~~ *8* of this bill requires provision of the code of honor relating to cheating to the pupil as well as his parent or legal guardian for their signature on that document. (NRS 392.461)

~~[Sections 5 and 6 of this bill establish an interim Advisory Council on Parental Involvement to study issues relating to parental involvement in education.]~~

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

Section 1. *Chapter 385 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 2, 3 and 4 of this act, "Advisory Council" means the Advisory Council on Parental Involvement established pursuant to section 3 of this act.*

Sec. 3. *1. The Superintendent of Public Instruction shall establish an Advisory Council on Parental Involvement. The Advisory Council is composed of 10 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; and

(f) One member of the board of trustees of a school district in a county whose population is less than 100,000.

➥ *The Superintendent of Public Instruction shall, to the extent practicable, ensure that the members he 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 Chairman and Vice Chairman from among its members. The Chairman and Vice Chairman serve a term of 1 year.

6. After the initial terms:

(a) The term of each member of the Advisory Council who is appointed by the Superintendent of Public Instruction is 3 years.

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

7. The Department shall provide:

(a) Administrative support to the Advisory Council; and

(b) All information that is necessary for the Advisory Council to carry out its duties.

8. For each day or portion of a day during which a member of the Advisory Council who is a Legislator attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council,

except during a regular or special session of the Legislature, he 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 218.2207.

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

9. A member of the Advisory Council who is not a Legislator is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which he 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.

Sec. 4. The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347;

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

~~[Section 1.]~~ *Sec. 5.* NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) *Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to section ~~[2]~~ 6 of this act.*

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

~~[(e)]~~ *(f)* Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

~~[(f)]~~ *(g)* Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the State Board, the support team shall make the recommendations to the State Board and the Department.

~~[(g)]~~ *(h)* In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the ~~[names]~~ *name* and duties of each person who is responsible for carrying out the revisions.

~~[(h)]~~ *(i)* Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school.

~~[(i)]~~ *(j)* Prepare a monthly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

~~[(j)]~~ *(k)* In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise monthly progress report for use by each support team in accordance with paragraph ~~[(i)]~~ *(j)* of subsection 1.

~~[Sec. 2.]~~ *Sec. 6.* Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall:

(a) Prescribe a form for use by teachers in elementary schools to provide reports to parents and legal guardians of pupils pursuant to this section;

(b) Work in consultation with the Legislative Bureau of Educational Accountability and Program Evaluation, the Nevada Association of School Boards, the Nevada Association of School Administrators, the Nevada State Education Association and the Nevada Parent Teacher Association in the development of the form; and

(c) Make the form available in electronic format for use by school districts and charter schools and, upon request, in any other manner deemed reasonable by the Department.

2. The form must include, without limitation:

(a) A notice to parents and legal guardians that parental involvement is important in ensuring the success of the academic achievement of pupils;

(b) A checklist indicating whether:

(1) The pupil completes his homework assignments in a timely manner;

(2) The pupil is present in the classroom when school begins each day and is present for the entire school day unless his absence is approved in accordance with NRS 392.130;

(3) The parent or legal guardian and the pupil abide by any applicable rules and policies of the school and the school district; and

(4) The pupil complies with the dress code for the school, if applicable; and

(c) A list of the resources and services available within the community to assist parents and legal guardians in addressing any issues identified on the checklist.

3. In addition to the requirements of subsection 2, the Department may prescribe additional information for inclusion on the form, including, without limitation:

(a) A report of the participation of the parent or legal guardian, including, without limitation, whether the parent or legal guardian:

(1) Completes forms and other documents that are required by the school or school district in a timely manner;

(2) Assists in carrying out a plan to improve the pupil's academic achievement, if applicable;

(3) Attends conferences between the teacher and the parent or legal guardian, if applicable; and

(4) Attends school activities.

(b) A report of whether the parent or legal guardian ensures the health and safety of the pupil, including, without limitation, whether:

(1) Current information is on file with the school that designates each person whom the school should contact if an emergency involving the pupil occurs; and

(2) Current information is on file with the school regarding the health and safety of the pupil, such as immunization records, if applicable, and any special medical needs of the pupil.

4. A teacher at an elementary school may provide the form prescribed by the Department, including the additional information prescribed pursuant to subsection 3 if the Department has prescribed such information on the form, to a parent or legal guardian of a pupil if the teacher determines that the provision of such a report would assist in improving the academic achievement of the pupil.

5. A report provided to a parent or legal guardian pursuant to this section must not be used in a manner that:

(a) Interferes unreasonably with the personal privacy of the parent or legal guardian or the pupil;

(b) Reprimands the parent or legal guardian; or

(c) Affects the grade or report of progress given to a pupil based upon the information contained in the report.

6. The principal of each elementary school at which a teacher provides reports pursuant to this section shall provide to the support team established for the school pursuant to NRS 385.3721, if applicable, the information contained in the completed reports for consideration by the support team. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

~~[Sec. 3.]~~ *Sec. 7.* NRS 392.4575 is hereby amended to read as follows:

392.4575 1. The Department shall prescribe a form for educational involvement accords to be used by all public schools in this State. The educational involvement accord must comply with the parental involvement policy:

(a) Required by the federal No Child Left Behind Act of 2001, as set forth in 20 U.S.C. § 6318.

(b) Adopted by the State Board pursuant to NRS 392.457.

2. Each educational involvement accord must include, without limitation:

(a) A description of how the parent or legal guardian will be involved in the education of the pupil, including, without limitation:

(1) Reading to the pupil, as applicable for the grade or reading level of the pupil;

(2) Reviewing and checking the pupil's homework; and

(3) Contributing 5 hours of time each school year, including, without limitation, by attending school-related activities, parent-teacher association meetings, parent-teacher conferences, volunteering at the school and chaperoning school-sponsored activities.

(b) The responsibilities of a pupil in a public school, including, without limitation:

(1) Reading each day before or after school, as applicable for the grade or reading level of the pupil;

(2) Using all school equipment and property appropriately and safely;

(3) Following the directions of any adult member of the staff of the school;

(4) Completing and submitting homework in a timely manner; and

(5) Respecting himself, others and all property.

(c) The responsibilities of a public school and the administrators, teachers and other personnel employed at a school, including, without limitation:

(1) Ensuring that each pupil is provided proper instruction, supervision and interaction;

(2) Maximizing the educational and social experience of each pupil;

(3) Carrying out the professional responsibility of educators to seek the best interest of each pupil; and

(4) Making staff available to the parents and legal guardians of pupils to discuss the concerns of parents and legal guardians regarding the pupils.

3. Each educational involvement accord must be accompanied by, without limitation:

(a) Information describing how the parent or legal guardian may contact the pupil's teacher and the principal of the school in which the pupil is enrolled;

(b) The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;

(c) The homework and grading policies of the pupil's teacher or school;

(d) Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;

(e) Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;

(f) The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;

(g) The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;

(h) The classroom rules and policies;

(i) The dress code of the school, if any;

(j) The availability of assistance to parents who have limited proficiency in the English language;

(k) Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;

(l) Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and

(m) The code of honor relating to cheating prescribed pursuant to NRS 392.461.

4. The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:

(a) Distribute the educational involvement accord to the parent or legal guardian of each pupil in his class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and

(b) Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord.

5. Except as otherwise provided in this subsection, the board of trustees of each school district shall ensure that the form prescribed by the Department is used for the educational involvement accord of each public school in the school district. The board of trustees of a school district may authorize the use of an expanded form that contains additions to the form

prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

6. The Department and the board of trustees of each school district shall, at least once each year, review and amend their respective educational involvement accords.

7. If an elementary school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years or more, the principal of the school shall provide to the support team established for the school pursuant to NRS 385.3721 information concerning the distribution of the educational involvement accord and the number of accords which were signed and returned by parents and legal guardians. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

~~[Sec. 4.]~~ *Sec. 8.* NRS 392.461 is hereby amended to read as follows:

392.461 1. The Department shall prescribe by regulation a written policy that establishes a code of honor for pupils relating to cheating on examinations and course work. The policy must be developed in consultation with the boards of trustees of school districts, the governing bodies of charter schools, educational personnel employed by school districts and charter schools, and local associations and organizations of parents whose children are enrolled in public schools throughout this State.

2. The policy must include, without limitation, a definition of cheating that clearly and concisely informs pupils which acts constitute cheating for purposes of the code of honor.

3. On or before July 1 of each year, the Department shall:

(a) Provide a copy of the code of honor to the board of trustees of each school district and the governing body of each charter school.

(b) Review and amend the code of honor as necessary.

4. Copies of the code of honor must be made available for inspection at each public school located within a school district, including, without limitation, each charter school, in an area on the grounds of the school that is open to the public.

5. Each classroom teacher shall:

(a) Distribute the code of honor to each pupil enrolled in his class and to the parent or legal guardian of each pupil enrolled in his class at the beginning of each school year or upon a pupil's enrollment in his class, as applicable;

(b) Provide the pupil and the parent or legal guardian of the pupil with a reasonable opportunity to sign the code of honor; and

(c) If the code of honor is returned with the signatures, retain a copy of the signed code of honor in the pupil's file.

~~[Sec. 5.]~~ *Sec. 9.* ~~[1. The Superintendent of Public Instruction shall establish an Advisory Council on Parental Involvement. All appointments to the Advisory Council must be made on or before September 1, 2007.~~

~~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; and~~

~~(f) One member of the board of trustees of a school district in a county whose population is less than 100,000.~~

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

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

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

~~5. The Advisory Council shall elect a Chairman and a Vice Chairman from among its members.~~

~~6. The Department of Education 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.~~

~~7. 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, he 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 and employees generally; and~~

~~(c) Travel expenses provided pursuant to NRS 218.2207.~~

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

~~8. 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 he 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 nonlegislative members of the Advisory Council must be paid by the Department of Education.]~~ *(Deleted by amendment.)*

~~[Sec. 6.]~~ *Sec. 10.* ~~[The Advisory Council on Parental Involvement established pursuant to section 5 of this act shall:~~

~~1. Review the policy of parental involvement adopted by the State Board of Education and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;~~

~~2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347;~~

~~3. Review any effective practices carried out in individual school districts in this State to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;~~

~~4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;~~

~~5. Identify methods to effectively communicate and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;~~

~~6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;~~

~~7. Identify methods to effectively communicate with and provide outreach to parents and legal guardians of pupils who are limited English proficient, as defined in NRS 385.007;~~

~~8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;~~

~~9. On or before August 1, 2008, submit a preliminary written report to the Legislative Committee on Education; and~~

~~10. On or before February 1, 2009, submit a final written report of its findings and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.~~ *(Deleted by amendment.)*

~~[Sec. 7.]~~ *Sec. 11.* On or before September 1, 2007, the Department of Education shall prescribe a form in accordance with section ~~[2]~~ *6* of this act for use commencing with the 2007-2008 school year by teachers in elementary schools.

Sec. 12. *1. On or before September 1, 2007, the Superintendent of Public Instruction shall appoint to the Advisory Council on Parental Involvement established pursuant to section 3 of this act:*

(a) Four members to terms commencing on September 1, 2007, and expiring on June 30, 2009.

(b) Four members to terms commencing on September 1, 2007, and expiring on June 30, 2010.

2. On or before September 1, 2007, the Speaker of the Assembly and the Majority Leader of the Senate shall each appoint a member to the Advisory

Council who is a member of the house that he represents to a term commencing on September 1, 2007, and expiring on June 30, 2009.

~~[Sec. 8.]~~ *Sec. 13.* ~~[1.]~~ This act becomes effective on July 1, 2007.

~~[2. Sections 5 and 6 of this act expire by limitation on June 30, 2009.]~~

Senator Washington moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 143.

Remarks by Senator Washington.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 239.

The following Assembly amendment was read:

Amendment No. 822.

"SUMMARY—Creates the P-16 Advisory Council. (BDR 34-416)"

"AN ACT relating to education; creating the P-16 Advisory Council to assist in the coordination between elementary, secondary and higher education in this State; providing for the organization, powers and duties of the Council; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill creates the P-16 Advisory Council to assist in the coordination between elementary, secondary and higher education in this State.

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

Section 1. Title 34 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 9 inclusive, of this act.

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

Sec. 3. *"Council" means the P-16 Advisory Council created by section 6 of this act.*

Sec. 4. *"System" means the Nevada System of Higher Education.*

Sec. 5. *The Legislature hereby finds and declares that:*

1. The Board of Regents of the University of Nevada was created by the Nevada Constitution and empowered to control and manage the affairs of the Nevada System of Higher Education.

2. Matters relating to education are vitally important to the future of the State of Nevada, its economy and the general welfare of its residents. In light of the growing enrollments in Nevada's system of public elementary and secondary education and Nevada's system of public higher education, it is important that the Nevada Legislature, the Board of Regents , the State Board and the Executive Branch of the State Government work together as partners in developing a needed public agenda to advance education in this State.

3. The development of an agenda to advance education should be carried out with a view toward seeking input from all parties who have a stake in the advancement of education in this State.

4. Coordination between elementary, secondary and higher education must be strengthened to ensure that pupils in the 12th grade are prepared adequately to make the transition from secondary education to higher education or to careers. To this end, a body should be established to coordinate education from the level of preschool through the completion of a bachelor's degree, to be known as the P-16 Advisory Council.

Sec. 6. *1. The P-16 Advisory Council, consisting of ~~[11]~~ 15 voting members, is hereby created to assist in the coordination between elementary, secondary and higher education in this State. The Chancellor of the System and the Superintendent of Public Instruction serve as ex officio nonvoting members of the Council.*

2. The Governor shall appoint ~~[five]~~ seven members to the Council as follows:

(a) One representative of higher education in this State.

(b) One representative of elementary and secondary education in this State.

(c) One representative of early childhood education in this State.

(d) One representative of private business in this State.

(e) One person that meets the qualifications of paragraph (a), (b), (c) or (d).

(f) One pupil enrolled in a secondary school in this State.

(g) One student enrolled in the System.

~~[The Governor may appoint the Chancellor of the System and the Superintendent of Public Instruction as members of the Council pursuant to paragraphs (a) and (b), respectively.]~~

3. The Majority Leader of the Senate and the Speaker of the Assembly shall each appoint ~~[two]~~ three members to the Council as follows:

(a) One member of the House of the Legislature that he represents.

(b) ~~[One member who meets the requirements of paragraph (a), (b), (c) or (d) of subsection 2.]~~ One member who is a parent of a pupil enrolled in a public school in this State or of a student enrolled in the System. The parent must not be employed by the board of trustees of a school district, the governing body of a charter school or the System.

(c) One member who is a :

(1) Licensed teacher employed by a school district or charter school in this State; or

(2) Teacher, instructor or professor employed by the Board of Regents of the University of Nevada.

4. The Minority Leader of the Senate and the Minority Leader of the Assembly shall each appoint one member to the Council who is a member of the general public.

5. The ~~[Governor shall appoint]~~ members of the Council shall elect a Chairman and a Vice Chairman from among the members of the Council . ~~[who represent business or the general public.]~~ After the initial term, the Chairman and Vice Chairman serve in the office for a term of 2 years beginning July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the ~~[Governor]~~ members of the Council shall ~~[appoint]~~ elect a member to fill the vacancy ~~[from among the members who represent business or the general public]~~ to serve for the remainder of the unexpired term of that office.

6. After the initial terms, each member of the Council serves a term of 3 years commencing on July 1 of the year of appointment. Such members may be reappointed for one additional term. A vacancy on the Council must be filled for the remainder of the unexpired term in the same manner as the original appointment. Each member of the Council continues in office until his successor is appointed.

7. Any member who is absent from two consecutive meetings of the Council without permission of the Chairman:

(a) Forfeits his office; and

(b) Must be replaced as provided in subsection 6 for the filling of a vacancy before the end of a term.

Sec. 7. *1. The Council shall meet at least once each calendar quarter and as frequently as necessary to afford the general public, representatives of governmental agencies and representatives of organizations an opportunity to present information and recommendations relating to the coordination between elementary, secondary and postsecondary education.*

2. The Council shall comply with the provisions of chapter 241 of NRS.

3. For each day or portion of a day during which the members of the Council attend a meeting of the Council or are otherwise engaged in the business of the Council:

(a) The members who are Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207, payable from the Legislative Fund.

(b) The members who are appointed by the Majority Leader of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate and the Minority Leader of the Assembly who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable from the Legislative Fund.

(c) The members who are appointed by the Governor are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable as other claims against the State are paid.

4. The Office of the Governor shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

as is necessary for the Council to carry out its duties.

5. The Board of Regents of the University of Nevada and the Department shall provide technical assistance to the Council upon the request of the Chairman.

Sec. 8. *1. The Council shall address:*

(a) Methods to increase the number of students who enroll in programs at the System to become teachers, including, without limitation, financial aid programs for students enrolled in those programs.

(b) Methods to ensure the successful transition of pupils from:

(1) Elementary school to middle school;

(2) Middle school to high school; and

(3) High school to postsecondary education,

including, without limitation, methods to increase parental involvement.

(c) Methods to ensure that the data information system for the pupils enrolled in the public schools is linked, to the extent feasible, with the data information system for the students enrolled in the System.

(d) Methods to ensure that the course work, standards and assessments required of pupils in secondary schools is aligned with the workload expected of students at the postsecondary level.

(e) Methods to ensure collaboration among the business community, members of the academic community and political leaders to set forth a process for developing strategies for the growth and diversification of the economy of this State.

(f) Policies relating to workforce development, employment needs of private employers and workforce shortages in occupations critical to the education, health and safety of the residents of this State.

(g) Other matters within the scope of the Council as determined necessary or appropriate by the Council.

2. The Council may:

(a) Establish committees to assist the Council in carrying out its duties.

(b) Apply for any available grants and may accept any gifts, grants and donations from any source to assist the Council in carrying out its duties.

Sec. 9. *On or before June 30 of each year, the Council shall submit a written report of its activities and any recommendations to the:*

1. Board of Regents of the University of Nevada;

2. State Board;

3. Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature;

4. Legislative Committee on Education; and

5. Governor.

Sec. 10. 1. On or before September 1, 2007, the Governor shall, pursuant to subsection 2 of section 6 of this act, appoint to the P-16 Advisory Council created by that section:

(a) ~~[Three]~~ *Four* members to terms commencing on September 1, 2007, and expiring on June 30, 2009.

(b) ~~[Two]~~ *Three* members to terms commencing on September 1, 2007, and expiring on June 30, 2010.

2. On or before September 1, 2007, the Majority Leader of the Senate and the Speaker of the Assembly shall, pursuant to subsection 3 of section 6 of this act, each appoint to the P-16 Advisory Council created by that section:

(a) One member *who is parent of a pupil enrolled in a public school in this State or of a student enrolled in the Nevada System of Higher Education* to a term commencing on September 1, 2007, and expiring on June 30, 2009.

(b) One member *of the House of the Legislature that he represents* to a term commencing on September 1, 2007, and expiring on June 30, 2010.

(c) One member who is a:

(1) Teacher employed by the board of trustees of a school district or the governing body of a charter school; or

(2) A teacher, instructor or professor employed by the Board of Regents of the University of Nevada,

➥ *to a term commencing on September 1, 2007, and expiring on June 30, 2010.*

3. On or before September 1, 2007, the Minority Leader of the Senate shall, pursuant to subsection 4 of section 6 of this act, appoint to the P-16 Advisory Council created by that section one member to a term commencing on September 1, 2007, and expiring on June 30, 2009.

4. On or before September 1, 2007, the Minority Leader of the Assembly shall, pursuant to subsection 4 of section 6 of this act, appoint to the P-16 Advisory Council created by that section one member to a term commencing on September 1, 2007, and expiring on June 30, 2010.

Sec. 11. ~~[On or before September 1, 2007, the Governor shall, pursuant to subsection 5 of section 6 of this act, appoint a Chairman and a Vice Chairman to the P-16 Advisory Council created by that section to a term commencing on September 1, 2007, and expiring on June 30, 2009.]~~ *(Deleted by amendment.)*

Sec. 12. This act becomes effective on July 1, 2007.

Senator Raggio moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 239.

Remarks by Senator Raggio.

Motion carried.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

Senator Coffin requested that his remarks be entered in the Journal.

I appreciate the indulgence of the floor for a moment while I discuss events happening in this building. Lobbyists and legislators are working together on the problem of financing transportation, particularly the super projects in the State of Nevada.

Yesterday, I raised the issue of who should pay by indicating that truckers and, especially, long-haul truckers are not paying their fair share. I would like to address that issue.

I have heard objections from trucking industry people. The following statements will be based on the Nevada Department of Transportation (NDOT) records, which go back 23 years. I have the cost-allocation study from 1984, the interim cost-allocation study from 1985, the cost-allocation study from 1986, the cost-allocation study from 1988, the cost-allocation study from 1990 and the cost-allocation studies from 1992, 1994 and 1999. These were done in conjunction with the federal government. They, too, wanted to understand what was happening in the states.

I would like to illustrate a few things from the 1999 cost-allocation study. It shows trucks underpaying at all levels of government by $336 million for the 1998-1999 biennium. It is striking how close that comes to the amount of money needed to float the bonds for the construction of new highways. Because of the huge growth of truck traffic and highway costs, that underpayment is an annual figure and is probably greater now.

Another point to remember, I discussed pavement design in a vague fashion by saying trucks make you build thick roads, cars make you build thinner roads. It can take 10,000 cars to do the damage that one 80,000 lb. tractor-trailer rig does. This figure comes from NDOT. They are providing this information because I requested it. They did not volunteer it.

Some people say, "prices are going to sky rocket in the State of Nevada because somehow goods would be priced up to pay for this charge." A commodity study done in 1993 showed that 80 percent of the commodity tonnage hauled across Nevada has an origin or destination that is not Nevada. As a result, Nevadans end up subsidizing people in California, Chicago and states across the Country.

I would like to make two main points. We are currently subsidizing people in other states. When Nevada pays more to repair interstate-truck damage than it receives in taxes, making up the difference falls to Nevada's taxpayers.

Highway construction costs have increased 75 percent since our last highway diesel-tax increase in 1992. Even before those huge price increases, interstate trucks were not paying their fair share. At current state and local fuel-tax rates, users of diesel fuel pay 27 cents per gallon while overwhelmingly; gasoline users pay 33 cents per gallon. If there are two identical vehicles, one is burning gasoline and one is burning diesel, the diesel-powered vehicle enjoys a 34-percent tax advantage over the gasoline vehicle in most Nevada counties. Diesel fuel contains a little more energy per gallon, but the tax is at least 6 cents per gallon lower for most Nevadans. Combining the fuel tax difference and energy advantage, Nevada's diesel tax should be at a minimum of 36 cents per gallon. Nevada's fuel tax does not make sense for equal weight vehicles, but it is especially misaligned when applied to heavier vehicles. This is information gleaned from these reports.

I want to address the objections that have been raised. We have received letters and e-mails from the trucking industry about what is wrong with weight distance.

They say the tax is costly to administer. In 1989, when Nevada had a mileage tax, administrative costs for all motor carriers were only 2.2 percent. Oregon's administrative costs are less than 4 percent and Arizona's are only 1.5 percent. They say evasion will be costly. Only one way exists for dishonest carriers to avoid fuel, registration fees or weight-distance taxes. They must underreport their taxable mileage, which would be against the law.

It has been said that since Nevada has no ports of entry, carriers will pay on the honor system. The answer is that all tax administration in the United States relies on voluntary reporting with periodic audits. This would be nothing new. There would be an honor system here and an honor system in the other 47 lower states as well.

Another objection is that the weight-distance tax is too complex. Calculating a vehicle-carrier's tax liability is simple. Multiply the vehicle-tax rate by the number of miles

driven in Nevada. Since 90 percent of the carriers licensed are licensed at 80,000 lbs., most only need to know their mileage.

Another objection is that because several other states have repealed the tax, Nevada should not consider adopting it. Because of their inherent fairness, interest in weight-distance taxes has not waned at the state or federal level. Only powerful truck-lobbying efforts have dissuaded state and local governments from adopting or renewing them. We are familiar with those efforts. Carriers are burdened by additional reporting. To answer that, carriers report only their weight and mileage.

It is said that the weight-distance tax is too costly for carriers. Any tax that is not assessed by roadway utilization is too costly for somebody. They just do not want to do it. Our current taxation burdens Nevada carriers because they drive relatively few miles. Only weight-distance taxes can assess carriers for the severity of utilization.

They say the tax is unfair because it is based on declared gross vehicle weight. Tax rates are based on declared gross-vehicle weight; however, equitable rates are determined on mean-operating weights. For example, while a rig may be licensed at 80,000 lbs., their mean operating rate may only be 65,000 lbs. They are not always taxed at 80,000 lbs.

There are arguments about why they can be increased. Any tax can be increased. They object that carriers that frequently deadhead are inordinately taxed.

They say carriers will lose the base-tax reporting advantages they won under the International Registration Plan and International Fuel Tax Agreement. They will not be changed. The Supreme Court has ruled they are constitutional.

Fairness has been discussed. I would like you to think about this when these bills move forward. The motor-carrier industry has a logical and fair system of fees. The tariffs they charge on the people's goods are based on the weight of the goods and the distance they will be hauled. That is exactly what they are charging. They are charging it on the basis they do not want to be taxed on.

Weight-distance taxes assess carriers for both the severity and the amount of roadway utilization that registration and fuel taxes cannot.

My last point is, interstate carriers transporting 86 percent of the commodity tonnage across I-80 use Nevada as a bridge state only. Our current fee structure forces Nevada citizens including intrastate carriers to subsidize goods for people in other states. The local truckers are subsidizing the long-haulers truckers too. It is not fair for them.

I have seen some proposals submitted by committees who are meeting trying to come up with a solution to the funding problem for transportation. I see a 4 cent per gallon increase in the diesel-fuel tax. That is so hard to bear. I say with sarcasm that I doubt they can survive if we levy anything other than 4 cents. That must be their last bargaining position.

There will be people who will drive in the car next to you and will see your Senate plate, if you dare put it on after the end of this Session. If you have passed a tax that increases their rates because of the depreciation schedule I have heard discussed, there will be a tax increase on your cars and the cars of your constituents. Think twice about going so light on the trucking industry.

I congratulate all of those who have worked hard on it. I appreciate the fact they are doing it, but stop ignoring the people who really need to pay more. Thank you.

Senator Raggio moved that the Senate recess until 5 p.m.

Motion carried.

Senate in recess at 2:42 p.m.

SENATE IN SESSION

At 6:23 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 335, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA K. CEGAVSKE, *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 354.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 975.

"SUMMARY—Revises provisions governing the health of pupils. (BDR 34-850)"

"AN ACT relating to the health of pupils; requiring that certain physical examinations of children in schools include an examination of height and weight of a representative sample of pupils; *requiring that notice be provided to the parent or guardian of a child before the examinations are performed;* requiring school nurses *or a designee of a school nurse* to report the results of such physical examinations to the State Health Officer for statistical purposes and to exclude from the reports any identifying information relating to a particular child; requiring the Legislative Committee on Health Care to hold a hearing during the interim concerning the health-related issues of children; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, physical examinations of children are required in certain grades in school to determine if a child has scoliosis, any visual or auditory problem or any gross physical defect. (NRS 392.420) This bill requires such a physical examination before the completion of the first year of enrollment in elementary school. This bill also requires examinations of height and weight of a representative sample of pupils. This bill authorizes *the board of trustees of a school district to adopt a policy encouraging the school district and schools within the district* ~~[school districts]~~ to collaborate with qualified health care providers and students enrolled in health care programs in postsecondary educational institutions to assist in the physical examinations. *This bill also requires that notice be provided to the parent or guardian of a child before the physical examinations are performed on the child.* This bill requires school nurses *or a designee of a school nurse* to report the results of such physical examinations to the State Health Officer for statistical purposes and to exclude from the reports any identifying information relating to a particular child.

Section 4 of this bill requires the Legislative Committee on Health Care to hold a hearing, during the 2007-2009 interim, concerning the health-related issues of children.

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

Section 1. NRS 392.420 is hereby amended to read as follows:

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district *in accordance with this subsection* to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems ~~[, in]~~ *:*

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least ~~[two grades]~~ *one additional grade* of the elementary schools ~~[,]~~ *; and*

(3) In one grade of the middle or junior high schools ~~[,]~~ and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

➥ Any person other than a school nurse *, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils,* who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.

2. *In addition to the requirements of subsection 1, each school district shall conduct examinations of height and weight of a representative sample of pupils in at least one grade of the:*

(a) Elementary schools within the school district;

(b) Middle schools or junior high schools within the school district; and

(c) High schools within the school district,

➥ *The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.*

3. If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

~~[3.]~~ *4.* A special examination for a possible visual or auditory problem must be provided for any child who:

(a) Is enrolled in a special program;

(b) Is repeating a grade;

(c) Has failed an examination for a visual or auditory problem during the previous school year; or

(d) Shows in any other way that he may have such a problem.

~~[4.]~~ *5.* The school authorities shall notify the ~~[parents]~~ *parent* or guardian of any child who is found or believed to have ~~[a]~~ *scoliosis, any* visual or auditory problem, ~~[scoliosis]~~ or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

~~[5.]~~ *6.* In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

~~[6.]~~ *7. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:*

(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and

(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

8. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from ~~[the]~~ *an* examination if his ~~[parents]~~ *parent* or guardian ~~[filed]~~ *files* with the teacher a written statement objecting to the examination.

9. Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing ~~[nursing]~~ services to the State Health Officer in the format prescribed by the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

Sec. 2. NRS 392.420 is hereby amended to read as follows:

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

➥ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.

2. ~~[In addition to the requirements of subsection 1, each school district shall conduct examinations of height and weight of a representative sample of pupils in at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools within the school district,~~

~~➥ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.~~

~~3.]~~ If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

~~[4.]~~ *3.* A special examination for a possible visual or auditory problem must be provided for any child who:

(a) Is enrolled in a special program;

(b) Is repeating a grade;

(c) Has failed an examination for a visual or auditory problem during the previous school year; or

(d) Shows in any other way that he may have such a problem.

~~[5.]~~ *4.* The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

~~[6.]~~ *5.* In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

~~[7.]~~ *6.* The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and

(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

~~[8.]~~ *7.* The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.

~~[9.]~~ *8.* Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

Sec. 3. (Deleted by amendment.)

Sec. 4. The Legislative Committee on Health Care shall, during the 2007-2009 interim, hold at least one hearing to identify the health-related issues, needs and priorities of children residing in this State. The Committee shall solicit input from all health authorities in this State and all county and local public health officials.

Sec. 5. 1. This section and sections 1 and 4 of this act become effective on July 1, 2007.

2. Section 1 of this act expires by limitation on June 30, 2010.

3. Section 2 of this act becomes effective on July 1, 2010.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 364.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 756.

"SUMMARY—Revises certain provisions relating to ~~[the use of]~~ *information provided to* a grand jury. (BDR 14-1303)"

"AN ACT relating to criminal procedure; ~~[prohibiting the use of a grand jury in certain circumstances;]~~ *authorizing a defendant to submit a statement concerning the results of a preliminary hearing to a grand jury;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This bill expands the existing limitations on the use of a grand jury so that a district attorney is also prohibited from seeking the indictment of a person if the evidence presented by the district attorney during the preliminary hearing was insufficient to hold the person for trial, unless substantial evidence is discovered that was not available at the time of the preliminary hearing. (NRS 172.107)]~~ *This bill authorizes a defendant to submit a statement to a grand jury providing whether a preliminary hearing was held and, if so, that the evidence presented was considered insufficient to warrant holding the defendant for trial. (NRS 172.145)*

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

Section 1. ~~[NRS 172.107 is hereby amended to read as follows:~~

~~172.107 A district attorney shall not use a grand jury to :~~

~~*1. Seek the indictment of a person if the evidence presented by the district attorney during a preliminary examination is insufficient to warrant holding the person for trial, unless substantial evidence that was not available at the time of the preliminary examination is discovered; or*~~

~~2. Discover tangible, documentary or testimonial evidence to assist in the prosecution of a defendant who has already been charged with the public offense by indictment or information.]~~ *(Deleted by amendment.)*

Sec. 2. *NRS 172.145 is hereby amended to read as follows:*

172.145 1. The grand jury is not bound to hear evidence for the defendant ~~[.]~~ *, except that the defendant is entitled to submit a statement which the grand jury must receive providing whether a preliminary hearing was held concerning the matter and, if so, that the evidence presented was considered insufficient to warrant holding the defendant for trial.* It is their duty, however, to weigh all evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they shall order that evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

2. If the district attorney is aware of any evidence which will explain away the charge, he shall submit it to the grand jury.

3. The grand jury may invite any person, without process, to appear before the grand jury to testify.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved that Assembly Bill No. 573 be taken from the Secretary's desk and placed on the bottom of the Second Reading File.

Remarks by Senator Hardy.

Motion carried.

Senator Heck moved that Assembly Bill No. 385 be taken from the Secretary's desk and placed on the bottom of the General File.

Remarks by Senator Heck.

Motion carried.

Senator Amodei moved that Assembly Bill No. 127 be taken from the Secretary's desk and placed on the bottom of the General File.

Remarks by Senator Amodei.

Motion carried.

Senator Washington moved that Assembly Bill No. 147 be taken from the Secretary's desk and that all necessary rules be suspended, reading so far had considered second reading, rules further suspended, and that Assembly Bill No. 147 declared an emergency measure under the Constitution and placed on third reading and final passage.

Remarks by Senator Washington.

Motion carried unanimously.

Senator Townsend moved that Assembly Bill No. 375 be taken from the Secretary's desk and placed on the General File on the last agenda.

Remarks by Senator Townsend.

Motion carried.

Senator Townsend moved that Assembly Bill No. 178 be taken from the Secretary's desk and placed on the General File on the last agenda.

Remarks by Senator Townsend.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 573.

Bill read second time.

The following amendment was proposed by Senator Hardy:

Amendment No. 931.

"SUMMARY—Revises certain provisions governing wildlife. (BDR 45-1413)"

"AN ACT relating to wildlife; *revising the circumstances under which the killing of certain animals is prohibited;* requiring the Department of Wildlife to issue a 1-day group fishing permit under certain circumstances; requiring the Board of Wildlife Commissioners to adopt certain regulations; prohibiting a person from hunting or fishing any wildlife without a license or permit to do so; revising the information that the Department must include in certain permits; revising the fees for certain tags and permits; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Department of Wildlife and requires the Department to administer the wildlife laws of this State. (NRS 501.331)

Section 24.5 of this bill revises the circumstances under which the intentional killing of certain animals is prohibited. (NRS 501.376)

Section 25 of this bill requires the Department to issue a 1-day group fishing permit to a group upon payment of the fee for the permit. A "group" means a group of persons that consists of at least one adult who is at least 16 years of age and at least one child who is at least 12 years of age but less than 16 years of age. Section 30 of this bill authorizes a person to fish for trout without obtaining a state trout stamp if the person is fishing under the authority of a 1-day group fishing permit.

Existing law states that a person who hunts or traps any wild bird or mammal or who fishes without first obtaining a license or permit to do so is guilty of a misdemeanor. (NRS 502.010) Existing law further states that a person who traps fur-bearing mammals must obtain a trapping license. (NRS 503.454) Section 26 of this bill states that a person who hunts or fishes any wildlife without a license or permit is guilty of a misdemeanor. "Wildlife" means any wild mammal, wild bird, fish, reptile, amphibian, mollusk or crustacean found naturally in a wild state. (NRS 501.097)

Existing law requires a license that grants the privilege to hunt, fish or trap to include certain information, including, without limitation, the name, address and description of the holder of the license and the date the license is issued. (NRS 502.030) Section 27 of this bill expands that requirement to include any permit to hunt, fish or trap.

Existing law sets forth the fees that must be paid for licenses, permits and tags to hunt, fish and trap in Nevada. (NRS 502.240, 502.250) Section 28 of this bill imposes a fee of $20 for the issuance of a 1-day permit to hunt migratory game birds and a fee of $8 for each consecutive day added to that permit. Section 29 of this bill imposes a fee of $1,200 for the issuance of a nonresident antlered elk tag and a fee of $500 for the issuance of a nonresident antlerless elk tag.

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

Section 1. Chapter 501 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this title, unless the context otherwise requires, the words and terms defined in NRS 501.003 to 501.097, inclusive, have the meanings ascribed to them in those sections.

Sec. 2. NRS 501.003 is hereby amended to read as follows:

501.003 ~~[As used in this title, "alternative]~~ *"Alternative* livestock" means the following species, including subspecies, of the family Cervidae, if they are born and reared in captivity and raised on private property to produce meat or other by-products of animals or as breeding stock to produce alternative livestock:

1. Fallow deer (Dama dama).
2. Reindeer (Rangifer tarandus).

Sec. 3. NRS 501.005 is hereby amended to read as follows:

501.005 ~~[As used in this title, "big]~~ *"Big* game mammal" means any game mammal so classified by Commission regulation.

Sec. 4. NRS 501.010 is hereby amended to read as follows:

501.010 ~~[As used in this title, "board"]~~ *"Board"* means the county advisory board to manage wildlife.

Sec. 5. NRS 501.013 is hereby amended to read as follows:

501.013 ~~[As used in this title, "chumming"]~~ *"Chumming"* means the placing in the water of fish, parts of fish or other material upon which fish feed, for the purpose of attracting fish to a particular area in order that they may be taken.

Sec. 6. NRS 501.015 is hereby amended to read as follows:

501.015 ~~[As used in this title, "closed]~~ *"Closed* season" means all periods except those designated as "open season." During any such season it is unlawful to fish, to hunt game mammals or game birds or to hunt or trap fur-bearing mammals. There is no closed season on those species of wild mammals or wild birds classified as unprotected.

Sec. 7. NRS 501.020 is hereby amended to read as follows:

501.020 Except as otherwise provided in NRS 504.430 to 504.490, inclusive, ~~[as used in this title, unless the context otherwise requires,]~~ "Commission" means the Board of Wildlife Commissioners.

Sec. 8. NRS 501.023 is hereby amended to read as follows:

501.023 ~~[As used in this title, "county,"]~~ *"County,"* when appearing alone or in the reference framework of county advisory board to manage wildlife, board of county commissioners or any county officer, includes and applies to Carson City.

Sec. 9. NRS 501.024 is hereby amended to read as follows:

501.024 ~~[As used in this title,]~~ "Department" means the Department of Wildlife.

Sec. 10. NRS 501.026 is hereby amended to read as follows:

501.026 ~~[As used in this title,]~~ "Director" means the Director of the Department.

Sec. 11. NRS 501.030 is hereby amended to read as follows:

501.030 ~~[As used in this title, the]~~ *The* words "to fish" and their derivatives, "fishes," "fishing" and "fished," mean catching, taking, capturing, killing, injuring or crippling of a fish or game amphibian, and every attempt to do so.

Sec. 12. NRS 501.035 is hereby amended to read as follows:

501.035 ~~[As used in this title, "fur bearing]~~ *"Fur-bearing* mammal" means any mammal so classified by Commission regulation.

Sec. 13. NRS 501.037 is hereby amended to read as follows:

501.037 ~~[As used in this title, "game]~~ *"Game* amphibian" means any amphibian so classified by Commission regulation.

Sec. 14. NRS 501.045 is hereby amended to read as follows:

501.045 ~~[As used in this title, "game]~~ *"Game* fish" means any fish so classified by Commission regulation.

Sec. 15. NRS 501.046 is hereby amended to read as follows:

501.046 ~~[As used in this title, "game]~~ *"Game* mammal" means any mammal so classified by Commission regulation.

Sec. 16. NRS 501.047 is hereby amended to read as follows:

501.047 ~~[As used in this title, "game]~~ *"Game* warden" means any person authorized by the Director to enforce the provisions of this title and of chapter 488 of NRS.

Sec. 17. NRS 501.050 is hereby amended to read as follows:

501.050 ~~[As used in this title, the]~~ *The* words "to hunt" and their derivatives, "hunting" and "hunted," mean to search for, pursue or attract ~~[wild mammals or birds]~~ *any wildlife* for the purpose and with the means of capturing, injuring or killing ~~[them,]~~ *that wildlife,* every attempt to capture, injure or kill ~~[wild mammals or birds,]~~ *wildlife,* and every act of assistance to any other person in capturing, injuring or killing ~~[such mammals or birds.]~~ *that wildlife.*

Sec. 18. NRS 501.055 is hereby amended to read as follows:

501.055 ~~[As used in this title, "migratory]~~ *"Migratory* game birds" means any birds so classified by Commission regulation.

Sec. 19. NRS 501.065 is hereby amended to read as follows:

501.065 ~~[As used in this title, "open]~~ *"Open* season" means that period designated pursuant to the provisions of this title during which it is legal to fish or to hunt game mammals or game birds or to hunt or to trap fur-bearing mammals. ~~[Such]~~ *The* period includes the first day and last day designated. There is no open season on those species of wildlife classified as protected.

Sec. 20. NRS 501.088 is hereby amended to read as follows:

501.088 ~~[As used in this title, unless the context otherwise requires, the]~~ *The* words "to take" and their derivatives, "took," "taken" and "taking," when used in reference to wildlife, mean to kill, capture, shoot, trap, catch, wound, possess, collect, seine, snare or net, and every attempt to do so.

Sec. 21. NRS 501.090 is hereby amended to read as follows:

501.090 ~~[As used in this title, the]~~ *The* words "to trap" and their derivatives, "trapping" and "trapped," mean to set or operate any device, mechanism or contraption that is designed, built or made to close upon or hold fast any ~~[wild mammal or wild bird]~~ *wildlife* and every act of assistance to any person in so doing.

Sec. 22. NRS 501.095 is hereby amended to read as follows:

501.095 ~~[As used in this title, "upland]~~ *"Upland* game birds" means any birds so classified by Commission regulation.

Sec. 23. NRS 501.096 is hereby amended to read as follows:

501.096 ~~[As used in this title, "vessel"]~~ *"Vessel"* means every kind of watercraft, other than a seaplane on the water, which is used or capable of being used as a means of transportation on water.

Sec. 24. NRS 501.097 is hereby amended to read as follows:

501.097 ~~[As used in this title, "wildlife"]~~ *"Wildlife"* means any wild mammal, wild bird, fish, reptile, amphibian, mollusk or crustacean found

naturally in a wild state, whether indigenous to Nevada or not and whether raised in captivity or not.

Sec. 24.5. *NRS 501.376 is hereby amended to read as follows:*

501.376 1. Except as otherwise provided in this section, a person shall not intentionally kill or aid and abet another person to kill a bighorn sheep, mountain goat, elk, deer, pronghorn antelope, mountain lion or black bear:

(a) Outside of the prescribed season set by the Commission for the lawful hunting of that animal;

(b) Through the use of an aircraft [,] *or* helicopter [~~or motor-driven vehicle~~] in violation of NRS 503.010;

(c) By a method other than the method prescribed on the tag issued by the Department for hunting that animal;

(d) [~~In a manner,~~] *Knowingly* during a time [~~or in a place otherwise prohibited by a specific statute or a regulation adopted~~] *other than:*

(1) The time of day set by the Commission [,] *for hunting that animal pursuant to NRS 503.140; or*

(2) If the Commission has not set such a time, between sunrise and sunset as determined pursuant to that section; or

(e) Without a valid tag issued by the Department for hunting that animal. A tag issued for hunting any animal specified in this subsection is not valid if knowingly used by a person:

(1) Other than the person specified on the tag;

(2) Outside of the management area or other area specified on the tag; or

(3) If the tag was obtained by a false or fraudulent representation.

2. The provisions of subsection 1 do not prohibit the killing of an animal specified in subsection 1 if:

(a) The killing of the animal is necessary to protect the life or property of any person in imminent danger of being attacked by the animal; or

(b) The animal killed was not the intended target of the person who killed the animal and the killing of the animal which was the intended target would not violate the provisions of subsection 1.

3. A person who violates the provisions of subsection 1 shall be punished for a category E felony as provided in NRS 193.130 or, if the court reduces the penalty pursuant to this subsection, for a gross misdemeanor. In determining whether to reduce the penalty, the court shall consider:

(a) The nature of the offense;

(b) The circumstances surrounding the offense;

(c) The defendant's understanding and appreciation of the gravity of the offense;

(d) The attitude of the defendant towards the offense; and

(e) The general objectives of sentencing.

4. A person shall not willfully possess any animal specified in subsection 1 if the person knows the animal was killed in violation of

subsection 1 or the circumstances should have caused a reasonable person to know that the animal was killed in violation of subsection 1.

5. A person who violates the provisions of subsection 4 is guilty of a gross misdemeanor.

Sec. 25. Chapter 502 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall issue a 1-day group fishing permit to a group upon the payment of the fee required pursuant to this section. A 1-day group fishing permit authorizes each member of the group to fish during the period specified on the permit in accordance with the regulations adopted by the Commission pursuant to this section. Each group that applies for the issuance of a 1-day group fishing permit pursuant to this section must designate a person who is at least 18 years of age to act as the primary adult for that group.

2. Except as otherwise provided in subsection 3, the fees for the issuance of a 1-day group fishing permit are:

(a) If at least one member of the group is a bona fide resident of this State pursuant to NRS 502.015:

(1) Eight dollars for the primary adult for the group;

(2) Five dollars for each other adult in the group; and

(3) Four dollars for each child in the group.

(b) If no member of the group is a bona fide resident of this State pursuant to NRS 502.015:

(1) Seventeen dollars for the primary adult for the group;

(2) Eleven dollars for each other adult in the group; and

(3) Five dollars for each child in the group.

3. The fees specified in subsection 2 are payable only with respect to each member of the group who does not hold a license or permit to fish issued pursuant to NRS 502.240.

4. The Commission shall adopt regulations to carry out the provisions of this section, including, without limitation, the requirements for using a 1-day group fishing permit.

5. As used in this section:

(a) "Adult" means a person who is at least 16 years of age.

(b) "Child" means a person who is at least 12 years of age but less than 16 years of age.

(c) "Group" means a group of persons consisting of at least one adult and one child at the time the 1-day group fishing permit is purchased.

Sec. 26. NRS 502.010 is hereby amended to read as follows:

502.010 1. A person who hunts or ~~[traps any of the wild birds or mammals or who]~~ fishes *any wildlife* without having first procured a license or permit to do so, as provided in this title, is guilty of a misdemeanor, except that:

(a) A license to hunt or fish is not required of a resident of this State who is under 12 years of age, unless required for the issuance of tags as prescribed in this title or by the regulations of the Commission.

(b) A license to fish is not required of a nonresident of this State who is under 12 years of age, but the number of fish taken by the nonresident must not exceed 50 percent of the daily creel and possession limits as provided by law.

(c) Except as otherwise provided in subsection 5 or 6 of NRS 202.300, it is unlawful for any child who is under 18 years of age to hunt any ~~[of the wild birds or mammals]~~ *wildlife* with any firearm, unless the child is accompanied at all times by his parent or guardian or is accompanied at all times by an adult person authorized by his parent or guardian to have control or custody of the child to hunt if the authorized person is also licensed to hunt.

(d) A child under 12 years of age, whether accompanied by a qualified person or not, shall not hunt big game in the State of Nevada. This section does not prohibit any child from accompanying an adult licensed to hunt.

(e) The Commission may adopt regulations setting forth:

(1) The species of ~~[wild birds or mammals]~~ *wildlife* which may be hunted or trapped without a license or permit; or

(2) The circumstances under which a person may fish without a license, permit or stamp in a lake or pond that is located entirely on private property and is stocked with lawfully acquired fish.

(f) The Commission may declare one day per year as a day upon which persons may fish without a license to do so.

2. This section does not apply to the protection of persons or property from unprotected ~~[wild birds or mammals]~~ *wildlife* on or in the immediate vicinity of home or ranch premises.

Sec. 27. NRS 502.030 is hereby amended to read as follows:

502.030 1. Licenses *or permits* granting the privilege to hunt, fish or trap as provided in this title must be of such a form as is deemed necessary by the Department, but must include the following information:

(a) The holder's name, address and description.

(b) The date issued.

(c) The period of validity.

(d) The correct designation as to whether a fishing, hunting or trapping license ~~[.]~~ *or permit.*

(e) A statement to be signed by the holder: "I, the signator holder in signing this license ~~[,]~~ *or permit,* hereby state that I am entitled to this license *or permit* under the laws of the State of Nevada and that no false statement has been made by me to obtain this license ~~[."]~~ *or permit."*

2. The Commission may provide rules and regulations requiring an applicant to exhibit proof of his identity and residence. Such information must be included on the license *or permit* as is deemed necessary by the Department.

3. The Commission may provide rules and regulations establishing a permanent licensing *or permitting* system. Such a system may authorize the use of applications for the issuance of temporary hunting, fishing and trapping licenses *or permits* for residents and the issuance of annual licenses *or permits* therefrom. The system may provide for the automatic renewal and validation of the annual license ~~[.]~~ *or permit.*

4. The Commission may ~~[provide regulations covering]~~ *adopt regulations setting forth* the method of applying for, the term and expiration date of any license *or permit* required by this title to be issued without the payment of a fee.

Sec. 28. NRS 502.240 is hereby amended to read as follows:

502.240 The Department shall issue annual licenses and limited permits:

1. To any person who has not attained his 16th birthday and who has been a bona fide resident of the State of Nevada for 6 months immediately preceding his application for a license, upon payment of a fee of $10 for an annual trapping license.

2. Except as otherwise provided in NRS 502.245 and 504.390, *and section 25 of this act,* to any person who has attained his 16th birthday and who has been a bona fide resident of the State of Nevada for 6 months immediately preceding his application for a license, upon the payment of a fee of:

For ~~[a]~~ *an annual* fishing license	$25
For a 1-day permit to fish	8
For each consecutive day added to a 1-day permit to fish	3
For a hunting license	$29
For a combined hunting and fishing license	50
For a trapping license	38
For a fur dealer's license	63
For an annual master guide's license	750
For an annual subguide's license	125

3. To any person who has attained his 12th birthday but who has not attained his 16th birthday, and who is not a bona fide resident of the State of Nevada, upon the payment of a fee of $17 for an annual fishing license.

4. Except as otherwise provided in subsection 3 ~~[,]~~ *and section 25 of this act,* to any person who is not a bona fide resident of the State of Nevada, upon the payment of a fee of:

For an annual fishing license	$65
For a 1-day permit to fish	17
For each consecutive day added to a 1-day permit to fish	7
For a hunting license	138
For a combined hunting and fishing license	195
For an annual trapper's license	188
For a fur dealer's license	125
For an annual master guide's license	1,500
For an annual subguide's license	250

For a 1-day permit to hunt upland game and ~~[waterfowl]~~ *migratory game birds* 20

For each consecutive day added to a 1-day permit to hunt upland game and ~~[waterfowl]~~ *migratory game birds* 8

5. To any person, without regard to residence, upon the payment of a fee of:

For a noncommercial license for the possession of live wildlife $15

For a commercial or private shooting preserve 125

For a commercial license for the possession of live wildlife 500

For a live bait dealer's permit 44

For a competitive field trials permit 31

For a permit to train dogs or falcons 15

For a 1-year falconry license 38

For a 3-year falconry license 94

For an importation permit 15

For an import eligibility permit 31

For an exportation permit 15

For any other special permit issued by the Department, a fee not to exceed the highest fee established for any other special permit set by the Commission.

Sec. 29. NRS 502.250 is hereby amended to read as follows:

502.250 1. The amount of the fee that must be charged for the following tags is:

Resident deer tag $30

Resident antelope tag 60

Resident elk tag 120

Resident bighorn sheep tag 120

Resident mountain goat tag 120

Resident mountain lion tag $25

Nonresident deer tag 240

Nonresident antelope tag 300

Nonresident *antlered* elk tag 1,200

Nonresident antlerless elk tag 500

Nonresident bighorn sheep tag 1,200

Nonresident mountain goat tag 1,200

Nonresident mountain lion tag 100

2. The amount of the fee for other resident or nonresident big game tags must not exceed the highest fee for a resident or nonresident big game tag established pursuant to this section.

3. The amount of the fee for a tag determined to be necessary by the Commission for other species pursuant to NRS 502.130 must not exceed the highest fee for a resident or nonresident tag established pursuant to this section.

4. A fee not to exceed $10 may be charged for processing an application for a game species or permit other than an application for an elk. A fee of not less than $5 but not more than $15 must be charged for processing an application for an elk, $5 of which must be deposited with the State Treasurer for credit to the Wildlife Obligated Reserve Account in the State General Fund and used for the prevention and mitigation of damage caused by elk or game mammals not native to this State.

5. The Commission may accept sealed bids for or may auction not more than 15 big game tags and not more than 5 wild turkey tags each year. To reimburse the Department for the cost of managing wildlife and administering and conducting the bid or auction, not more than 18 percent of the total amount of money received from the bid or auction may be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. Any amount of money received from the bid or auction that is not so deposited must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in the State General Fund in accordance with the provisions of NRS 501.3575.

6. The Commission may by regulation establish an additional drawing for big game tags, which may be entitled the Partnership in Wildlife Drawing. To reimburse the Department for the cost of managing wildlife and administering and conducting the drawing, not more than 18 percent of the total amount of money received from the drawing may be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. Except as otherwise provided by regulations adopted by the Commission pursuant to subsection 7, the money received by the Department from applicants in the drawing who are not awarded big game tags must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in accordance with the provisions of NRS 501.3575.

7. The Commission may adopt regulations which authorize the return of all or a portion of any fee collected from a person pursuant to the provisions of this section.

Sec. 30. NRS 502.326 is hereby amended to read as follows:

502.326 1. Except as otherwise provided in subsection 2, it is unlawful for any person to take or possess trout unless at the time he is fishing he carries on his person:

(a) An unexpired state trout stamp affixed to his fishing license and validated by his signature in ink across the face of the stamp; or

(b) Such documentation as the Department provides as proof that he has paid to the Department, for the licensing period that includes the time he is fishing, the same fee as that required pursuant to subsection 3 for the purchase of a state trout stamp for that period.

2. The provisions of subsection 1 do not apply to a person who:

(a) Is under the age of 12; or

(b) Is fishing:

(1) Under the authority of a valid 1-day permit to fish or during a consecutive day validly added to that permit; ~~[or]~~

(2) *Under the authority of a valid 1-day group fishing permit; or*

(3) In accordance with regulations adopted by the Commission pursuant to subparagraph (2) of paragraph (e) of subsection 1 of NRS 502.010.

3. State trout stamps must be sold for a fee of $10 each by the Department and by persons authorized by the Department to sell hunting, fishing and trapping licenses.

4. The Department shall determine the form of the stamps.

Sec. 31. This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Titus and Hardy.

Senator Titus requested that the following remarks be entered in the Journal.

SENATOR TITUS:

Thank you, Mr. President. I would like to be certain, for the record, that this does not weaken the penalties for poaching. I would like to hear more about the "time of day" stipulation.

SENATOR HARDY:

It does not weaken the penalty for poaching. It weakens the penalty for firing from a vehicle during permitted times. It will no longer be punishable by a class C felony. The portion relating to the time of day clears it up. The language initially set a place or time otherwise prohibited by regulation. This puts, in statute, the time and place that would be prohibited. It says if the commission has not set such a time that it would be sunrise and sunset. This was to catch any type of hunting that would be done after hours. This language was worked out and approved by the Department of Wildlife.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 250.

Bill read third time.

Roll call on Senate Bill No. 250:

YEAS—21.

NAYS—None.

Senate Bill No. 250 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 572.

Bill read third time.

Roll call on Senate Bill No. 572:

YEAS—21.

NAYS—None.

Senate Bill No. 572 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Assembly Bill No. 604.

Bill read second time.

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

Amendment No. 886.

"SUMMARY—Revises provisions governing ~~[petitions for statewide]~~ initiatives and referenda. (BDR 24-1396)"

"AN ACT relating to elections; *requiring the governing body of certain political subdivisions that submits a question to the voters to create a description of anticipated financial effect;* requiring certain persons or groups of persons advocating the passage or defeat of certain initiatives or referenda to provide various information to the Secretary of State concerning campaign contributions, expenditures and expenses; ~~[requiring public hearings to be conducted concerning certain initiatives and referenda;]~~ requiring circulators of certain petitions to attach an affidavit to each document of the petition; ~~[requiring circulators of certain petitions to disclose their status as volunteer or paid circulators;]~~ authorizing the Legislative Counsel to provide technical suggestions regarding certain initiatives and referenda; *requiring the governing body of a local government to prepare a description of anticipated financial effect when a petition for initiative or referendum is filed with the county or city clerk;* providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2 and 3 of this bill require the governing body of certain political subdivisions that submits a question to the voters that will appear on the ballot at certain elections to create a description of the anticipated financial effect that such a question could have on the political subdivision if the question were approved by the voters. Sections 4 and 5 of this bill require that such descriptions appear on the sample ballots.

Chapter 294A of NRS governs campaign practices. NRS 294A.150 and 294A.220 require persons or groups of persons advocating the passage or defeat of a question on a ballot to submit reports to the Secretary of State on campaign contributions, expenditures and expenses. *Sections 11 and 12 of this bill provide a higher reporting threshold for those persons or groups.* Section ~~[3]~~ *7* of this bill creates a new section for persons and groups of persons advocating the passage or defeat of a constitutional amendment or a statewide measure proposed by an initiative or referendum and that have received or expended at least $10,000 for that purpose. The provisions of this new section require such persons or groups to submit similar campaign contribution and expense reports to the Secretary of State on a different schedule *, with a higher reporting threshold* and with certain additional information. Section ~~[4]~~ *8* of this bill requires such persons and groups to appoint a resident agent who lives in Nevada, regardless of the amount of money they have received or expended. Section ~~[5]~~ *9* of this bill requires

such persons and groups to file an organizational statement with the Secretary of State, regardless of the amount of money they have received or expended. Section ~~[6]~~ *10* of this bill requires such persons and groups who pay others to circulate petitions to disclose certain financial information to the Secretary of State. Section ~~[13]~~ *17* of this bill provides that such persons and groups who violate section ~~[3]~~ *7* are subject to civil penalties.

Chapter 295 of NRS governs petitions for statewide and local initiatives and referenda. Section ~~[15]~~ *19* of this bill requires the ~~[Director of the Legislative Counsel Bureau to hold public hearings on statewide initiatives and referenda]~~ *county clerks who receive the petitions for statewide initiatives or referenda for the purpose of signature verification to make copies of the petitions and make them available to the public for not less than 14 days*. Section ~~[16]~~ *20* of this bill requires petition circulators *for statewide measures or referenda* to attach an affidavit to each document of a petition attesting to ~~[the veracity of each signature.]~~ *certain information about the process of gathering signatures.* Section ~~[17]~~ *21* of this bill prohibits paying people to sign petitions. ~~[Section 18 of this bill requires petition circulators to disclose whether they are paid or volunteer circulators.]~~

Existing law requires the Secretary of State to consult with the Fiscal Analysis Division of the Legislative Counsel Bureau regarding the possible financial effect on the State of any *statewide* initiative or referendum. (NRS 295.015) Section ~~[20]~~ *24* of this bill requires the Secretary of State also to consult with the Legislative Counsel regarding each *statewide* initiative or referendum and authorizes the Legislative Counsel to make technical suggestions regarding the petition. *Sections 25 and 26 of this bill provide that when a petition for county initiative or referendum or municipal initiative or referendum is filed with the county or city clerk, the clerk is required to consult with the appropriate governing body to determine whether the initiative or referendum would have a financial effect on the local government, if approved by the voters. If the appropriate governing body determines that the initiative or referendum would have a financial effect, sections 25 and 26 require the governing body to create a description of the anticipated financial effect and require the appropriate clerk to post such a description on his Internet website, if he maintains an Internet website.*

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

Section 1. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 [.] *and section ~~[3]~~ 7 of this act.*

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

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

Sec. 2. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2 , [~~or NRS 295.121 or 295.217,~~] every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) [~~Arguments~~] *Except as otherwise provided in NRS 295.121 or 295.217, arguments* for and against the question; and

(3) [~~If~~] *A description of the anticipated financial effect on the local government which, if* the question is an advisory question that proposes a bond, tax, fee or expense, [~~a fiscal note prepared by the governing body~~] *must be prepared* in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in May preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) [~~If~~] *A description of the anticipated financial effect on the local government which, if* the question is an advisory question that proposes a bond, tax, fee or expense, [~~a fiscal note prepared by the governing body~~] *must be prepared* in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) ~~[If]~~ *A description of the anticipated financial effect on the local government which, if* the question is an advisory question that proposes a bond, tax, fee or expense, ~~[a fiscal note prepared by the governing body]~~ *must be prepared* in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) ~~[If]~~ *A description of the anticipated financial effect on the local government which, if* the question is an advisory question that proposes a bond, tax, fee or expense, ~~[a fiscal note prepared by the governing body]~~ *must be prepared* in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. A county or city clerk may charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and ~~[fiscal note]~~ *description of the anticipated financial effect* on the ballot.

Sec. 3. NRS 293.482 is hereby amended to read as follows:

293.482 1. The governing body of a county or city may, at any general election or general city election, ask the advice of the registered voters within its jurisdiction on any question which it has under consideration. No other political subdivision, public or quasi-public corporation, or other local agency may ask the advice of the registered voters within its jurisdiction on any question which it has under consideration.

2. To place an advisory question on the ballot at a general election or general city election, the governing body of a county or city must:

(a) Adopt a resolution that:

(1) Sets forth:

(I) The question, in language indicating clearly that the question is advisory only;

(II) An explanation of the question;

(III) Except as otherwise provided in NRS 295.121 and 295.217, arguments for and against the question; and

(IV) ~~[If]~~ *A description of the anticipated financial effect on the local government which, if* the question is an advisory question that proposes a bond, tax, fee or expense, ~~[a fiscal note]~~ *must be* prepared by the governing body in accordance with subsection 4; and

(2) States that the result of the voting on the question does not place any legal requirement on the governing body, any member of the governing body or any officer of the political subdivision; and

(b) Comply with the requirements of paragraph (a) or (d) of subsection 1 of NRS 293.481.

3. A governing body may, at any general election, ask the advice of the registered voters of part of its territory if:

(a) The advisory question to be submitted affects only that part of its territory; and

(b) The resolution adopted pursuant to subsection 2 sets forth the boundaries of the area in which the advice of the registered voters will be asked.

4. With respect to a ~~[fiscal note]~~ *description of the anticipated financial effect* that is required in connection with an advisory question:

(a) If, in the advisory question, the governing body seeks advice on whether bonds should be issued, the ~~[fiscal note]~~ *description* must include any information that is required by law to be included on the sample ballot pursuant to the provisions of law that govern the procedure for issuance of the applicable type of bond.

(b) If, in the advisory question, the governing body seeks advice on whether a limitation upon revenue from taxes ad valorem should be exceeded, the ~~[fiscal note]~~ *description* must include any information that is required by law to be included on the sample ballot pursuant to the provisions of law that govern the procedure for exceeding that limitation.

(c) If, in the advisory question, the governing body seeks advice on whether a tax other than a property tax described in paragraph (b) should be levied, the ~~[fiscal note]~~ *description* must:

(1) Identify the average annual cost that is expected to be incurred by the affected taxpayers if the tax were to be levied;

(2) Specify the period over which the tax is proposed to be levied;

(3) Disclose whether, in connection with the levy of the tax, revenue bonds are to be sold which will be backed by the full faith and credit of the assessed value of the applicable local government; and

(4) If applicable, specify whether, in connection with or following the levy of the tax, additional expenses are expected to be incurred to pay for the operation or maintenance of any program or service to be provided from the proceeds of the tax or to pay for the operation or maintenance of any building, equipment, facility, machinery, property, structure, vehicle or other thing of value to be purchased, improved or repaired with the proceeds of the tax.

(d) If, in the advisory question, the governing body seeks advice on whether a fee should be imposed, the ~~[fiscal note]~~ *description* must:

(1) Identify the average annual cost that is expected to be incurred by the affected users if the fee were to be imposed;

(2) Specify the period over which the fee is proposed to be imposed; and

(3) If applicable, specify whether, in connection with or following the imposition of the fee, additional expenses are expected to be incurred to pay for

the program or service to be provided from the proceeds of the fee or to pay for the operation or maintenance of any building, equipment, facility, machinery, property, structure, vehicle or other thing of value to be purchased, improved or repaired with the proceeds of the fee.

(e) If, in the advisory question, the governing body seeks advice on whether the applicable local government should incur an expense, the ~~[fiscal note]~~ *description* must:

(1) Identify the source of revenue that will be used to pay the expense;

(2) Disclose whether it is expected that the incurring of the expense will require the levy or imposition of a new tax or fee or the increase of an existing tax or fee; and

(3) If a tax or fee is proposed to be levied or imposed or increased to pay the expense, contain the information required pursuant to paragraph (c) or (d), as applicable.

5. On the sample ballot for the general election or general city election, each advisory question must appear:

(a) With a title in substantially the following form: "Advisory Ballot Question No. ...."; and

(b) With its explanation, arguments and ~~[, if required, fiscal note.]~~ *description of the anticipated financial effect.*

6. The Committee on Local Government Finance shall prepare sample advisory ballot questions to demonstrate, for each situation enumerated in paragraphs (a) to (e), inclusive, of subsection 4, examples of the manner in which ~~[fiscal notes]~~ *descriptions of the anticipated financial effect* should be prepared.

Sec. 4. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 2, sample ballots must include:

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

(b) The fiscal note ~~[,]~~ *or description of anticipated financial effect,* as provided pursuant to NRS 218.443, 293.250, 293.481 ~~[or 293.482,]~~ *, 293.482, 295.015 or 295.095* for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218.443, 293.250, 293.481, 293.482 or 295.121, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or

political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218.443, 293.250, 293.252, 293.481, 293.482 or 295.121; and

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

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

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

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

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

3. Before the period for early voting, but not later than 10 days before any election, the county clerk shall cause to be mailed to each registered voter in the county a sample ballot for his precinct with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

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

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

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

4. Except as otherwise provided in subsection 5, a sample ballot required to be mailed pursuant to this section must:

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

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

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

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

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

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

8. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his

polling place and provide reasonable assistance to the voter in casting his vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

(a) The addresses of such centralized voting locations;

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

(c) That a voter who is elderly or disabled may cast his ballot at such a centralized voting location rather than at his regularly designated polling place.

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

Sec. 5. *NRS 293C.530 is hereby amended to read as follows:*

293C.530 1. Before the period for early voting, but not later than 10 days before an election, the city clerk shall cause to be mailed to each registered voter in the city a sample ballot for his precinct with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

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

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

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

2. Except as otherwise provided in subsection 3, a sample ballot required to be mailed pursuant to this section must:

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

(b) Include the ~~[fiscal note]~~ *description of the anticipated financial effect* and explanation ~~[, as required pursuant to NRS 293.481 or 293.482,]~~ of each citywide measure and advisory question, including arguments for and against ~~[it;]~~ *the measure or question, as required pursuant to NRS 293.481, 293.482, 295.205 or 295.217;* and

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

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

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

4. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in

any other manner, must be printed in at least 14-point type, or larger when practicable.

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

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

(a) The addresses of such centralized voting locations;

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

(c) That a voter who is elderly or disabled may cast his ballot at such a centralized voting location rather than at his regularly designated polling place.

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

~~[Sec. 2.]~~ *Sec. 6.* Chapter 294A of NRS is hereby amended by adding thereto the sections set forth as sections ~~[3 to 6,]~~ *7 to 10,* inclusive, of this act.

~~[Sec. 3.]~~ *Sec. 7. 1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of $10,000 for such advocacy shall, not later than the dates listed in subsection 2, report:*

(a) Each campaign contribution in excess of ~~[$100]~~ $1,000 received during each period described in subsection 2;

(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed ~~[$100;]~~ $1,000;

(c) Each expenditure in excess of ~~[$100]~~ $1,000 the person or group of persons makes during each period described in subsection 2; and

(d) The total amount of money the person or group of persons has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.

2. Every person or group of persons required to report pursuant to subsection 1 shall file that report with the Secretary of State:

(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant

to Section 1 or Section 2 of Article 19 of the Nevada Constitution, as applicable, and ending on the following March 31, not later than April 15;

(b) For the period beginning on April 1 and ending on July 31, not later than August 15;

(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and

(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.

3. The name and address of the contributor and the date on which the contribution was received must be included on each report for each contribution in excess of ~~[$100]~~ $1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the applicable reporting period.

4. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in each report.

5. Each report required pursuant to this section must:

(a) Be on the form designed and provided by the Secretary of State pursuant to NRS 294A.373; and

(b) Be signed by the person or a representative of the group of persons under penalty of perjury.

6. A person or group of persons may mail or transmit each report to the Secretary of State by certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.

7. A report shall be deemed to be filed with the Secretary of State:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Secretary of State if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

~~[Sec. 4.]~~ *Sec. 8. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum shall appoint and keep within this State a resident agent who must be a natural person who resides in this State.*

~~[Sec. 5.]~~ *Sec. 9. 1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, before engaging in any such advocacy in this State, shall file a statement of organization with the Secretary of State as provided in subsection 2.*

2. Each statement of organization must include:

(a) The name of the person or group of persons;

(b) The purpose for which the person or group of persons is organized;

(c) The names and addresses of any officers of the person or group of persons;

(d) If the person or group of persons is affiliated with or is retained by any other person or group for the purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name and address of each such other person or group; and

(e) The name, address and telephone number of the resident agent of the person or group of persons.

3. A person or group of persons which has filed a statement of organization pursuant to this section shall file an amended statement with the Secretary of State within 30 days of any changes to the information required pursuant to subsection 2.

~~[Sec. 6.]~~ *Sec. 10. 1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum that provides*

compensation to persons to circulate petitions shall report to the Secretary of State:

(a) The number of persons to whom such compensation is provided;

(b) The least amount of such compensation that is provided and the greatest amount of such compensation that is provided; and

(c) The total amount of compensation provided.

2. The Secretary of State shall make public any information received pursuant to this section.

~~[Sec. 7.]~~ *Sec. 11.* NRS 294A.150 is hereby amended to read as follows:

294A.150 1. ~~[Every]~~ *Except as otherwise provided in section ~~[3]~~ 7 of this act, every* person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~[and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation]~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of ~~[$100]~~ *$1,000* received during that period and contributions received during the period from a contributor which cumulatively exceed ~~[$100.]~~ *$1,000.* The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for each question for which the person or group advocates passage or defeat *;* ~~[or each year in which a person or group receives or expends money in excess of $10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;]~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through June 30 of that year,

➥ report each campaign contribution in excess of ~~[$100]~~ *$1,000* received during the period and contributions received during the period from a contributor which cumulatively exceed ~~[$100.]~~ *$1,000.* The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of ~~[$100]~~ *$1,000* and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every

person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[If]~~ *Except as otherwise provided in section 7 of this act, if* a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation shall comply with the requirements of this subsection.]~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each campaign contribution in excess of ~~[$100]~~ *$1,000* received during the period and contributions received during the period from a contributor which cumulatively exceed ~~[$100.]~~ *$1,000.* The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of ~~[$100]~~ *$1,000* received during the period and contributions received during the period from a contributor which cumulatively exceed ~~[$100.]~~ *$1,000.* The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

6. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on

the ballot at a special election to determine whether a public officer will be recalled shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. If the person or group of persons is advocating passage or defeat of a group of questions , ~~[or is receiving or expending money to support a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,]~~ the reports must be itemized by question or petition.

10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

~~[Sec. 8.]~~ *Sec. 12.* NRS 294A.220 is hereby amended to read as follows:

294A.220 1. ~~[Every]~~ *Except as otherwise provided in section ~~[3]~~ 7 of this act, every* person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~[and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support~~

~~such initiation or circulation;~~] shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~[$100]~~ *$1,000* on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for a question for which the person or group advocates passage or defeat *;* ~~[or each year in which a person or group of persons receives or expends money in excess of $10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;]~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through the June 30 immediately preceding that July 15,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~[$100]~~ *$1,000* on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[If]~~ *Except as otherwise provided in section 7 of this act, if* a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation shall comply with the requirements of this subsection.]~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~[$100]~~ *$1,000* on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~[$100]~~ *$1,000* on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~[$100]~~ *$1,000* on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of questions , ~~[or a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,]~~ the reports must be itemized by question or petition. A person may mail or transmit his report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

~~[Sec. 9.]~~ *Sec. 13.* NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210, 294A.220 and 294A.280 *and section ~~[3]~~ 7 of this act* must

consist of a list of each expenditure in excess of $100 *or $1,000, as is appropriate,* that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of $100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

(a) Office expenses;

(b) Expenses related to volunteers;

(c) Expenses related to travel;

(d) Expenses related to advertising;

(e) Expenses related to paid staff;

(f) Expenses related to consultants;

(g) Expenses related to polling;

(h) Expenses related to special events;

(i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and

(j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160.

~~[Sec. 10.]~~ *Sec. 14.* NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~[.]~~ *and section ~~[3]~~ 7 of this act.*

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form.

~~[Sec. 11.]~~ *Sec. 15.* NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy;

3. The registration of a committee for political action pursuant to NRS 294A.230 or a committee for the recall of a public officer pursuant to NRS 294A.250; or

4. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360, *or section ~~[3]~~ 7 of this act,*

➥ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360 *or section ~~[3]~~ 7 of this act* relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420 must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

~~[Sec. 12.]~~ *Sec. 16.* NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, *and section ~~[3]~~ 7 of this act,* prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of $100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of $100.

4. The expenditures exceeding $100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) ~~[Person or group of persons on behalf of or against a question or group of questions on the ballot.~~

~~(c)]~~ Group of persons advocating the election or defeat of a candidate.

~~[(d)]~~ *(c)* Committee for the recall of a public officer.

5. The contributions in excess of $100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) ~~[A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.~~

~~(c)]~~ A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.

6. The contributions in excess of $1,000 made to and the expenditures exceeding $1,000 made by a:

(a) Person or group of persons on behalf of or against a question or group of questions on the ballot, except as otherwise provided in paragraph (c).

(b) Person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot, except as otherwise provided in paragraph (c).

(c) Person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of $10,000 for such advocacy.

~~[Sec. 13.]~~ *Sec. 17.* NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 *or section ~~[3]~~ 7 of this act* has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 *or section ~~[3]~~ 7 of this act* is subject to a civil penalty of not more than $5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, $25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.

(c) If the report is more than 15 days late, $100 for each day the report is late.

➥ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

~~[Sec. 14.]~~ *Sec. 18.* Chapter 295 of NRS is hereby amended by adding thereto the sections set forth as sections ~~[15 to 18, inclusive,]~~ *19, 20 and 21* of this act.

~~[Sec. 15.]~~ *Sec. 19.* ~~*[1. The Director of the Legislative Counsel Bureau shall hold a public hearing on each petition for initiative or referendum that has been filed with the Secretary of State.*~~

~~*2. Each public hearing required pursuant to this section must be held not later than 10 days nor more than 20 days before the general election at which the initiative or referendum is submitted for popular vote.*~~

~~*3. The Legislative Counsel Bureau shall provide such staff as is necessary to provide appropriate research and analysis of the initiative or referendum at each public hearing required pursuant to this section.*~~

~~*4. Each public hearing required pursuant to this section must be an opportunity for public discussion of:*~~

~~*(a) Technical matters relating to the petition, including, without limitation, compliance with the requirements of NRS 295.009; and*~~

~~*(b) The substantive content of the initiative or referendum.]*~~ *After a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum is submitted for signature verification to the county clerk, the county clerk shall make true and correct copies of all the documents of the petition and signatures thereon and shall make such copies and signatures available to the public for a period of not less than 14 days.*

~~[Sec. 16.]~~ *Sec. 20. A petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum may consist of more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:*

1. That he personally circulated the document;

2. The number of signatures thereon;

3. That all the signatures were affixed in his presence; and

4. ~~[That he believes the signatures to be the genuine signatures of the persons whose names they purport to be; and~~

~~5.]~~ That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

~~[Sec. 17.]~~ *Sec. 21. A person shall not give compensation of any kind to any person in exchange for signing a petition for initiative or referendum.*

~~[Sec. 18.]~~ *Sec. 22. ~~[Each person circulating a petition for initiative or referendum who:~~*

~~1. Is not receiving or will not receive any compensation for circulating the petition shall disclose to signers of the petition his status as a volunteer;~~

~~2. Is receiving or will receive any compensation for circulating the petition shall disclose to signers of the petition his status as a paid circulator.]~~ (Deleted by amendment.)

~~[Sec. 19.]~~ *Sec. 23.* (Deleted by amendment.)

~~[Sec. 20.]~~ *Sec. 24.* NRS 295.015 is hereby amended to read as follows:

295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, must be placed on file with the Secretary of State.

2. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1 ~~[, the]~~ *:*

(a) The Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.

(b) The Secretary of State shall consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum.

3. Not later than 10 business days

after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009 *,* ~~[and]~~ any fiscal note prepared pursuant to subsection 2 ~~[,]~~ *and any suggestions made by the Legislative Counsel pursuant to subsection 2,* on his Internet website.

Sec. 25. *NRS 295.095 is hereby amended to read as follows:*

295.095 1. Any five registered voters of the county may commence initiative or referendum proceedings by filing with the county clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the county equal to 15 percent or more of the number of voters who voted at the last preceding general election in the county.

3. Referendum petitions must be signed by a number of registered voters of the county equal to 10 percent or more of the number of voters who voted at the last preceding general election in the county.

4. *Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1, the county clerk shall consult with the board to determine if the initiative or referendum may have any anticipated financial effect on the local government if the initiative or referendum is approved by the voters. If the board determines that the initiative or referendum may have an anticipated financial effect on the local government if the initiative or referendum is approved by the voters, the board must prepare a description of the anticipated financial effect and the county clerk shall post a copy of this information on his Internet website, if he maintains one.*

5. A petition must be submitted to the county clerk for verification, pursuant to NRS 295.250 to 295.290, inclusive, not later than:

(a) One hundred and eighty days after the date that the affidavit required by subsection 1 is filed with the county clerk; or

(b) One hundred and thirty days before the election,

➥ whichever is earlier.

~~[5.]~~ *6.* A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection ~~[4.]~~ *5.* Each document must contain, or have attached thereto throughout its circulation, the full text of the ordinance proposed or sought to be reconsidered.

~~[6.]~~ *7.* Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

(a) That he personally circulated the document;

(b) The number of signatures thereon;

(c) That all the signatures were affixed in his presence;

~~[(d) That he believes them to be genuine signatures of the persons whose names they purport to be;]~~ and

~~[(c)]~~ *(d)* That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

~~[7.]~~ *8.* The county clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

(a) Documents included in the petition;

(b) Pages in each document; and

(c) Signatures that the person declares are included in the petition.

Sec. 26. NRS 295.205 is hereby amended to read as follows:

295.205 1. Any five registered voters of the city may commence initiative or referendum proceedings by filing with the city clerk an affidavit:

(a) Stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form;

(b) Stating their names and addresses;

(c) Specifying the address to which all notices to the committee are to be sent; and

(d) Setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the city equal to 15 percent or more of the number of voters who voted at the last preceding city election.

3. Referendum petitions must be signed by a number of registered voters of the city equal to 10 percent or more of the number of voters who voted at the last preceding city election.

4. *Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1, the city clerk shall consult with the council to determine if the initiative or referendum may have any anticipated financial effect on the local government if the initiative or referendum is approved by the voters. If the council determines that the initiative or referendum may have an anticipated financial effect on the local government if the initiative or referendum is approved by the voters, the council must prepare a description of the anticipated financial effect and the city clerk shall post a copy of this information on his Internet website, if he maintains one.*

5. A petition must be submitted to the city clerk for verification, pursuant to NRS 295.250 to 295.290, inclusive, not later than:

(a) One hundred and eighty days after the date that the affidavit required by subsection 1 is filed with the city clerk; or

(b) One hundred and thirty days before the election,

➥ whichever is earlier.

~~[5.]~~ *6.* A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection ~~[4.]~~ *5.* Each document must contain, or have attached thereto throughout its

circulation, the full text of the ordinance proposed or sought to be reconsidered.

~~[6.]~~ *7.* Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

(a) That he personally circulated the document;

(b) The number of signatures thereon;

(c) That all the signatures were affixed in his presence;

~~[(d) That he believes them to be genuine signatures of the persons whose names they purport to be;]~~ and

~~[(e)]~~ *(d)* That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

~~[7.]~~ *8.* The city clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

(a) Documents included in the petition;

(b) Pages in each document; and

(c) Signatures that the person declares are included in the petition.

Sec. 27. NRS 295.217 is hereby amended to read as follows:

295.217 1. In a city whose population is 10,000 or more, for each initiative, referendum or other question to be placed on the ballot by the:

(a) Council, including, without limitation, pursuant to NRS 293.482 or 295.215; or

(b) Governing body of a public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the city,

➥ the council shall, in consultation pursuant to subsection 5 with the city clerk or other city officer authorized to perform the duties of the city clerk, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative, referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the city clerk pursuant to subsection 5, the council is unable to appoint three persons willing to serve on a committee, the council may appoint fewer than three persons to that committee, but the council must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The city clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The city clerk, after exercising due diligence to locate persons who favor approval by the voters of an initiative, referendum or other question to be placed on the ballot or who oppose approval by the voters of an initiative, referendum or other question to be placed on the ballot, may use the names on a list established pursuant to this subsection to:

(a) Make recommendations pursuant to subsection 5; and

(b) Appoint members to a committee pursuant to subsection 6.

5. Before the council appoints a committee pursuant to this section, the city clerk shall:

(a) Recommend to the council persons to be appointed to the committee; and

(b) Consider recommending pursuant to paragraph (a):

(1) Any person who has expressed an interest in serving on the committee; and

(2) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

6. If the council of a city whose population is 10,000 or more fails to appoint a committee as required pursuant to this section, the city clerk shall, in consultation with the city attorney, prepare an argument advocating approval by the voters of the initiative, referendum or other question and an argument opposing approval by the voters of the initiative, referendum or other question. Each argument prepared by the city clerk must satisfy the requirements of paragraph (f) of subsection 7 and any rules or regulations adopted by the city clerk pursuant to subsection 8. The city clerk shall not prepare the rebuttal of the arguments required pursuant to paragraph (e) of subsection 7.

7. A committee appointed pursuant to this section:

(a) Shall elect a chairman for the committee;

(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall prepare an argument either advocating or opposing approval by the voters of the initiative, referendum or other question, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative, referendum or other question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The *anticipated* fiscal ~~[impact]~~ *effect* of the initiative, referendum or other question;

(2) The environmental impact of the initiative, referendum or other question; and

(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the city clerk not later than the date prescribed by the city clerk pursuant to subsection 8.

8. The city clerk of a city whose population is 10,000 or more shall provide, by rule or regulation:

(a) The maximum permissible length of an argument or rebuttal prepared pursuant to this section; and

(b) The date by which an argument or rebuttal prepared pursuant to this section must be submitted by the committee to the city clerk.

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the city clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

➥ Not later than 5 days after the city clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection to the city attorney or other city officer appointed to hear the appeal by the city council. The city attorney or other city officer appointed to hear the appeal shall review the statement and the reasons for its rejection and may receive evidence, documentary or testimonial, to aid him in his decision. Not later than 3 business days after the appeal by the committee, the city attorney or other city officer appointed to hear the appeal shall issue his decision rejecting or accepting the statement. The decision of the city attorney or other city officer appointed to hear the appeal is a final decision for the purposes of judicial review. If the decision of the city attorney or other city officer appointed to hear the appeal is challenged by filing a complaint in district court, the court shall set the matter for hearing not later than 3 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

10. The city clerk shall place in the sample ballot provided to the registered voters of the city each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The city clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.

11. In a city whose population is less than 10,000:

(a) The council may appoint committees pursuant to this section.

(b) If the council appoints committees pursuant to this section, the city clerk shall provide for rules or regulations pursuant to subsection 8.

12. If a question is to be placed on the ballot by an entity described in paragraph (b) of subsection 1, the entity must provide a copy and explanation of the question to the city clerk at least 30 days earlier than the date required for the submission of such documents pursuant to subsection 1 of NRS 293.481. This subsection does not apply to a question if the date that the question must be submitted to the city clerk is governed by subsection 2 of NRS 293.481.

Sec. 28. *This act becomes effective on July 1, 2007.*

Senator Cegavske moved the adoption of the amendment.

Remarks by Senators Cegavske, Care, Titus and Carlton.

Motion carried on a division of the house.

Amendment adopted.

The following amendment was proposed by Senators Cegavske, Beers, Hardy, Horsford, Mathews, Raggio and Wiener:

Amendment No. 987.

"SUMMARY—Revises provisions governing ~~[petitions for statewide initiatives and referenda.]~~ *elections.* (BDR 24-1396)"

"AN ACT relating to elections; *requiring the governing body of a city incorporated pursuant to general law in certain larger counties to adopt an ordinance to provide for a primary city election and general city election on the dates for state primary elections and state general elections;* requiring certain persons or groups of persons advocating the passage or defeat of certain initiatives or referenda to provide various information to the Secretary of State concerning campaign contributions, expenditures and expenses; requiring public hearings to be conducted concerning certain initiatives and referenda; requiring circulators of certain petitions to attach an affidavit to each document of the petition; requiring circulators of certain petitions to disclose their status as volunteer or paid circulators; authorizing the Legislative Counsel to provide technical suggestions regarding certain initiatives and referenda; *revising the charters of certain cities to provide for primary city elections and general city elections on the dates for state primary elections and state general elections;* providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that city primary and general elections must be held in odd-numbered years while state and other local primary and general elections must be held in even-numbered years. (NRS 293.12755, 293.175, 293C.115, 293C.140, 293C.145) Section 1.3 of this bill requires a city incorporated under general law in a county whose population is 400,000 or more (currently Clark County) to adopt an ordinance setting city elections in even-numbered years. Sections 22-46 of this bill also amend the charter of each city that is located in a county whose population is 400,000 or more to reflect this change in election dates. Cities affected are Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas.

Chapter 294A of NRS governs campaign practices. NRS 294A.150 and 294A.220 require persons or groups of persons advocating the passage or defeat of a question on a ballot to submit reports to the Secretary of State on campaign contributions, expenditures and expenses. Section 3 of this bill creates a new section for persons and groups of persons advocating the passage or defeat of a constitutional amendment or a statewide measure proposed by an initiative or referendum and that have received or expended at least $10,000 for that purpose. The provisions of this new section require such persons or groups to submit similar campaign contribution and expense reports to the Secretary of State on a different schedule and with certain additional information. Section 4 of this bill requires such persons and groups to appoint a resident agent who lives in Nevada, regardless of the amount of money they have received or expended. Section 5 of this bill requires such persons and groups to file an organizational statement with the Secretary of State, regardless of the amount of money they have received or expended. Section 6 of this bill requires such persons and groups who pay others to circulate petitions to disclose certain financial information to the Secretary of State. Section 13 of this bill provides that such persons and groups who violate section 3 are subject to civil penalties.

Chapter 295 of NRS governs petitions for statewide and local initiatives and referenda. Section 15 of this bill requires the Director of the Legislative Counsel Bureau to hold public hearings on statewide initiatives and referenda. Section 16 of this bill requires petition circulators to attach an affidavit to each document of a petition attesting to the veracity of each signature. Section 17 of this bill prohibits paying people to sign petitions. Section 18 of this bill requires petition circulators to disclose whether they are paid or volunteer circulators.

Existing law requires the Secretary of State to consult with the Fiscal Analysis Division of the Legislative Counsel Bureau regarding the possible financial effect on the State of any initiative or referendum. (NRS 295.015) Section 20 of this bill requires the Secretary of State also to consult with the Legislative Counsel regarding each initiative or referendum and authorizes the Legislative Counsel to make technical suggestions regarding the petition.

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

Section 1. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~[.]~~ *and section 3 of this act.*

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

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

Sec. 1.3. *NRS 293C.115 is hereby amended to read as follows:*

293C.115 1. ~~[The]~~ *Except as otherwise provided in subsection 2, the* governing body of a city incorporated pursuant to general law may by ordinance provide for a primary city election and a general city election on:

(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or

(b) The dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

2. *The governing body of a city incorporated pursuant to general law in a county whose population is 400,000 or more shall by ordinance provide for a primary city election and a general city election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.*

3. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1 ~~[.]~~ *or subsection 2,* the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165, and in NRS 293.175, 293.177, 293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.

~~[3.]~~ *4.* If a governing body of a city adopts an ordinance pursuant to subsection 1 ~~[.]~~ *or is required to adopt an ordinance pursuant to subsection 2:*

(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and

(b) Each elected city official holds office until the end of his term and until his successor has been elected and qualified.

Sec. 1.7. *NRS 293C.291 is hereby amended to read as follows:*

293C.291 If a candidate whose name appears on the ballot at a primary city election or general city election dies after the applicable date set forth in:

1. NRS 293C.370; or

2. NRS 293.368, if the governing body of the city has adopted an ordinance pursuant to paragraph (a) of subsection 1 *or subsection 2* of NRS 293C.115,

➥ but before the time of the closing of the polls on the day of the election, the city clerk shall post a notice of the candidate's death at each polling place where the candidate's name will appear on the ballot for the primary city election or general city election.

Sec. 2. Chapter 294A of NRS is hereby amended by adding thereto the sections set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. *1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of $10,000 for such advocacy shall, not later than the dates listed in subsection 2, report:*

(a) Each campaign contribution in excess of $100 received during each period described in subsection 2;

(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed $100;

(c) Each expenditure in excess of $100 the person or group of persons makes during each period described in subsection 2; and

(d) The total amount of money the person or group of persons has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.

2. Every person or group of persons required to report pursuant to subsection 1 shall file that report with the Secretary of State:

(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant to Section 1 or Section 2 of Article 19 of the Nevada Constitution, as applicable, and ending on the following March 31, not later than April 15;

(b) For the period beginning on April 1 and ending on July 31, not later than August 15;

(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and

(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.

3. The name and address of the contributor and the date on which the contribution was received must be included on each report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the applicable reporting period.

4. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in each report.

5. Each report required pursuant to this section must:

(a) Be on the form designed and provided by the Secretary of State pursuant to NRS 294A.373; and

(b) Be signed by the person or a representative of the group of persons under penalty of perjury.

6. A person or group of persons may mail or transmit each report to the Secretary of State by certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.

7. A report shall be deemed to be filed with the Secretary of State:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Secretary of State if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 4. *Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum shall appoint and keep within this State a resident agent who must be a natural person who resides in this State.*

Sec. 5. *1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, before engaging in any such advocacy in this State, shall file a statement of organization with the Secretary of State as provided in subsection 2.*

2. Each statement of organization must include:

(a) The name of the person or group of persons;

(b) The purpose for which the person or group of persons is organized;

(c) The names and addresses of any officers of the person or group of persons;

(d) If the person or group of persons is affiliated with or is retained by any other person or group for the purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name and address of each such other person or group; and

(e) The name, address and telephone number of the resident agent of the person or group of persons.

3. A person or group of persons which has filed a statement of organization pursuant to this section shall file an amended statement with the Secretary of State within 30 days of any changes to the information required pursuant to subsection 2.

Sec. 6. *1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum that provides compensation to persons to circulate petitions shall report to the Secretary of State:*

(a) The number of persons to whom such compensation is provided;

(b) The least amount of such compensation that is provided and the greatest amount of such compensation that is provided; and

(c) The total amount of compensation provided.

2. The Secretary of State shall make public any information received pursuant to this section.

Sec. 7. NRS 294A.150 is hereby amended to read as follows:

294A.150 1. ~~[Every]~~ *Except as otherwise provided in section 3 of this act, every* person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~[and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation]~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 received during that period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for each question for which the person or group advocates passage or defeat *;* ~~[or each year in which a person or group receives or expends money in excess of $10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;]~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through June 30 of that year,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation shall comply with the requirements of this subsection.]~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form

designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

6. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. If the person or group of persons is advocating passage or defeat of a group of questions , ~~[or is receiving or expending money to support a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,]~~ the reports must be itemized by question or petition.

10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

Sec. 8. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. ~~[Every]~~ *Except as otherwise provided in section 3 of this act, every* person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~[and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation]~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for a question for which the person or group advocates passage or defeat *;* ~~[or each year in which a person or group of persons receives or expends money in excess of $10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;]~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates

the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through the June 30 immediately preceding that July 15,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation shall comply with the requirements of this subsection.]~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on

the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of questions , ~~[or a group of petitions for constitutional amendments, a group of petitions for~~

~~statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,~~] the reports must be itemized by question or petition. A person may mail or transmit his report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

Sec. 9. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210, 294A.220 and 294A.280 *and section 3 of this act* must consist of a list of each expenditure in excess of $100 that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of $100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

(a) Office expenses;

(b) Expenses related to volunteers;

(c) Expenses related to travel;

(d) Expenses related to advertising;

(e) Expenses related to paid staff;

(f) Expenses related to consultants;

(g) Expenses related to polling;

(h) Expenses related to special events;

(i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and

(j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160.

Sec. 10. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 [.] *and section 3 of this act.*

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form.

Sec. 11. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy;

3. The registration of a committee for political action pursuant to NRS 294A.230 or a committee for the recall of a public officer pursuant to NRS 294A.250; or

4. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360, *or section 3 of this act,*

➥ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360 *or section 3 of this act* relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420 must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 12. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, *and section 3 of this act,* prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of $100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of $100.

4. The expenditures exceeding $100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.

(c) Group of persons advocating the election or defeat of a candidate.

(d) Committee for the recall of a public officer.

5. The contributions in excess of $100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.

(c) A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.

Sec. 13. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 *or section 3 of this act* has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 *or section 3 of this act* is subject to a civil penalty of not more than $5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, $25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.

(c) If the report is more than 15 days late, $100 for each day the report is late.

➥ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 14. Chapter 295 of NRS is hereby amended by adding thereto the sections set forth as sections 15 to 18, inclusive, of this act.

Sec. 15. *1. The Director of the Legislative Counsel Bureau shall hold a public hearing on each petition for initiative or referendum that has been filed with the Secretary of State.*

2. Each public hearing required pursuant to this section must be held not later than 10 days nor more than 20 days before the general election at which the initiative or referendum is submitted for popular vote.

3. The Legislative Counsel Bureau shall provide such staff as is necessary to provide appropriate research and analysis of the initiative or referendum at each public hearing required pursuant to this section.

4. Each public hearing required pursuant to this section must be an opportunity for public discussion of:

(a) Technical matters relating to the petition, including, without limitation, compliance with the requirements of NRS 295.009; and

(b) The substantive content of the initiative or referendum.

Sec. 16. *A petition for initiative or referendum may consist of more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:*

1. That he personally circulated the document;

2. The number of signatures thereon;

3. That all the signatures were affixed in his presence;

4. That he believes the signatures to be the genuine signatures of the persons whose names they purport to be; and

5. That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Sec. 17. *A person shall not give compensation of any kind to any person in exchange for signing a petition for initiative or referendum.*

Sec. 18. *Each person circulating a petition for initiative or referendum who:*

1. Is not receiving or will not receive any compensation for circulating the petition shall disclose to signers of the petition his status as a volunteer;

2. Is receiving or will receive any compensation for circulating the petition shall disclose to signers of the petition his status as a paid circulator.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 295.015 is hereby amended to read as follows:

295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, must be placed on file with the Secretary of State.

2. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1 ~~[, the]~~ *:*

(a) The Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.

(b) The Secretary of State shall consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum.

3. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009 , ~~[and]~~ any fiscal note prepared pursuant to subsection 2 ~~[.]~~ *, and any suggestions made by the Legislative Counsel pursuant to subsection 2,* on his Internet website.

Sec. 21. *NRS 267.110 is hereby amended to read as follows:*

267.110 1. Any city having adopted a charter pursuant to the provisions of NRS 267.010 to 267.140, inclusive, has pursuant to the charter:

(a) All of the powers enumerated in the general laws of the State for the incorporation of cities.

(b) Such other powers necessary and not in conflict with the Constitution and laws of the State of Nevada to carry out the commission form of government.

2. The charter, when submitted, must:

(a) Fix the number of commissioners, their terms of office and their duties and compensation.

(b) Provide for all necessary appointive and elective officers for the form of government therein provided, and fix their salaries and emoluments, duties and powers.

(c) Fix, in accordance with the provisions of NRS 293C.140 and 293C.175 or with the provisions of NRS 293C.145, or with the provisions of paragraph (a) of subsection 1 *or subsection 2* of NRS 293C.115, the time for the first and subsequent elections for all elective officers. After the first election and the qualification of the officers who were elected, the old officers and all boards or offices and their emoluments must be abolished.

Sec. 22. *Section 4 of the Charter of Boulder City is hereby amended to read as follows:*

Section 4. Number; selection and term; recall.

1. The City Council shall have four Councilmen and a Mayor elected from the City at large in the manner provided in Article IX . ~~[, for terms of four years and until their successors have been elected and have taken office as provided in section 16, subject to recall as provided in section 111.5.]~~ No Councilman shall represent any particular constituency or district of the City, and each Councilman shall represent the entire City. (Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. Except as otherwise provided in section 96, all Councilmen and the Mayor shall serve for 4 years, subject to recall as provided in section 111.5.

Sec. 23. *Section 16 of the Charter of Boulder City is hereby amended to read as follows:*

Section 16. Induction of Council into office; meetings of Council.

1. The City Council shall meet within ~~[ten]~~ *10* days after each ~~[city]~~ primary election and each ~~[city]~~ general election specified in Article IX ~~[,]~~ to canvass the returns and to declare the results. All newly elected or reelected Mayor or Council members ~~[shall]~~ *must* be inducted into office at the next regular Council meeting following certification of the applicable ~~[city]~~ general election results. Immediately following such induction, the Mayor pro tem ~~[shall]~~ *must* be designated as provided in section 7. Thereafter, the Council shall meet regularly at such times as it shall set by resolution from time to time, but not less frequently than once each month. (Add. 13; Amd. 1; 6-2-1987; Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996; Add. 24; Amd. 1; 6-3-2003)

A. (Add. 3; Amd. 2; 5-2-1967; Repealed by Add. 15; Amd. 1; 6-4-1991)

2. It is the intent of this Charter that deliberations and actions of the Council be conducted openly. All meetings of the City Council ~~[shall]~~ *must* be in accordance with chapter 241 of ~~[the Nevada Revised Statutes.]~~ *NRS.* (Add. 10; Amd. 1; 6-2-1981)

3. Any emergency meeting of the City Council, as defined by chapter 241 ~~[, shall]~~ *of NRS, must* be as provided therein, and in addition:

(a) An emergency meeting may be called by the Mayor or upon written notice issued by a majority of the Council.

(b) Prior notice of such an emergency meeting ~~[shall]~~ *must* be given to all members of the City Council. (Add. 10; Amd. 1; 6-2-1981)

Sec. 24. Section 92 of the Charter of Boulder City is hereby amended to read as follows:

Section 92. Public parks, recreation areas, parking.

1. All public parks, public recreation areas and publicly owned off-street parking areas in existence at the time of incorporation, unless under private lease, must not be sold, leased or zoned for any other use without approval of the majority of the voters voting at a special election ~~[or primary or general]~~ *, a primary* municipal *and state* election , or *a* general *municipal and* state election.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City. (Add. 16; Amd. 2; 1-1-1994)

(A—Ch. 345, Stats. 1993 p. 1096)

Sec. 25. Section 96 of the Charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of ~~[city]~~ elections.

1. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. ~~[All]~~ *Except as otherwise provided in subsections 3 and 4, all* full terms of office in the City Council are ~~[four years, and]~~ *4 years.* Council members must be elected at large without regard to precinct residency.

3. Two ~~[full-term]~~ Council members and the Mayor are to be elected ~~[in each year immediately preceding a federal presidential election, and two full-term]~~ *on the first Tuesday after the first Monday in June 2011 at a general municipal election to be held for that*

purpose. The two Council members and the Mayor shall hold office until their successors have been elected and qualified pursuant to subsection 5.

4. Two Council members are to be elected ~~[in each year immediately following a federal presidential election.]~~ *on the first Tuesday after the first Monday in June 2009 at a general municipal election to be held for that purpose. The two Council members shall hold office until their successors have been elected and qualified pursuant to subsection 6.*

5. Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in November 2014 and at each successive interval of 4 years thereafter. The two Council members and the Mayor shall hold office for a period of 4 years and until their successors have been elected and qualified.

6. Two Council members are to be elected on the first Tuesday after the first Monday in November 2012 and at each successive interval of 4 years thereafter. The two Council members shall hold office for a period of 4 years and until their successors have been elected and qualified.

7. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant ~~[full term]~~ positions. (Add. 17; Amd. 1; 11-5-1996)

(a) In the event one or more ~~[two-year]~~ *2-year* term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such ~~[position(s).]~~ *positions.* Candidates receiving the greatest respective number of votes must be declared elected to the respective available ~~[two-year]~~ *2-year* positions. (Add. 15; Amd. 2; 6-4-1991)

~~[3. A city]~~

8. A primary election must be held on the first Tuesday after the first Monday in April of each odd-numbered year *,* and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

(a) A primary election must not be held if no more than double the number of Council members to be elected file as candidates. A primary election must not be held for the office of Mayor if no more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected. (Add. 17; Amd. 1; 11-5-1996)

(b) If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he shall be considered elected to one of the vacancies and his name ~~[shall]~~ *must* not be placed on the ballot for the general city election. (Add. 10; Amd. 7; 6-2-1981)

(c) In each primary and general election, voters ~~[shall be]~~ *are* entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections. (Add. 11; Amd. 5; 6-7-1983)

~~[4.]~~ *9.* The conduct of all municipal elections ~~[shall be]~~ *is* under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 26. Section 96 of the Charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of elections.

1. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. Except as otherwise provided in subsections 3 and 4, all full terms of office in the City Council are 4 years. Council members must be elected at large without regard to precinct residency.

3. Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in June 2011 at a general municipal election to be held for that purpose. The two Council members and the Mayor shall hold office until their successors have been elected and qualified pursuant to subsection 5.

4. Two Council members are to be elected on the first Tuesday after the first Monday in June 2009 at a general municipal election to be held for that purpose. The two Council members shall hold office until their successors have been elected and qualified pursuant to subsection 6.

5. Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in November 2014 and at each successive interval of 4 years thereafter. The two Council members and the Mayor shall hold office for a period of 4 years and until their successors have been elected and qualified.

6. Two Council members are to be elected on the first Tuesday after the first Monday in November 2012 and at each successive interval of 4 years thereafter. The two Council members shall hold office for a period of 4 years and until their successors have been elected and qualified.

7. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant positions. (Add. 17; Amd. 1; 11-5-1996)

(a) In the event one or more 2-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such positions. Candidates receiving the greatest respective number of votes must be declared elected to the respective available 2-year positions. (Add. 15; Amd. 2; 6-4-1991)

8. A primary election must be held on the ~~[first Tuesday after the first Monday in April]~~ *twelfth Tuesday before the general election* of each ~~[odd-numbered]~~ *even-numbered* year, and a ~~[city]~~ general election must be held on the first Tuesday after the first Monday in ~~[June]~~ *November* of each ~~[odd-numbered]~~ *even-numbered* year.

(a) A primary election must not be held if no more than double the number of Council members to be elected file as candidates. A primary election must not be held for the office of Mayor if no more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected. (Add. 17; Amd. 1; 11-5-1996)

(b) If, in the primary ~~[city]~~ election, a candidate receives votes equal to a majority of voters casting ballots in that election, he shall be considered elected to one of the vacancies and his name must not be placed on the ballot for the general ~~[city]~~ election. (Add. 10; Amd. 7; 6-2-1981)

(c) In each primary and general election, voters are entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections. (Add. 11; Amd. 5; 6-7-1983)

9. The conduct of all municipal elections is under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 27. Section 100 of the Charter of Boulder City is hereby amended to read as follows:

Section 100. Registered voters' power of initiative and referendum concerning city ordinances.

The registered voters of a city may:

1. Propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, ~~[to]~~ *may* adopt or reject it at a primary ~~[or general]~~ municipal *and state* election or ~~[primary or]~~ general *municipal and* state election.

2. Require reconsideration by the Council of any adopted ordinance ~~[,]~~ and , if the Council fails to repeal an ordinance so considered, ~~[to]~~ *may* approve or reject it ~~[as]~~ *at* a primary ~~[or general]~~

municipal *and state* election or ~~[primary or]~~ general *municipal and* state election. (Add. 16; Amd. 2; 1-1-1994)

(A—Ch. 345, Stats. 1993 p. 1097)

Sec. 28. Section 102 of the Charter of Boulder City is hereby amended to read as follows:

Section 102. Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the results of the election and must be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes prevails to the extent of the conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the results of the election.

3. No initiative ordinance voted upon by the registered voters , or an initiative ordinance in substantially the same form as one voted upon by the people, may again be placed on the ballot until the next primary ~~[or general]~~ municipal *and state* election or ~~[primary or]~~ general *municipal and* state election. (Add. 16; Amd. 2; 1-1-1994)

(A—Ch. 345, Stats. 1993 p. 1097)

Sec. 29. Section 119 of the Charter of Boulder City is hereby amended to read as follows:

Section 119. Amending the Charter.

1. An amendment to this Charter:

A. May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change.

(1) If a statute is enacted which directly amends this Charter, such an amendment is not subject to public approval as provided in subsection B and must be included in the Charter and identified as having been amended by the particular statute involved.

(2) If a statute is enacted which requires that this Charter be amended but does not require the specific wording to be used, the City Council shall propose a suitable amendment to be submitted to the registered voters of the City as provided in subsection B. If such a proposed amendment is not adopted by the voters, it must be redrafted and resubmitted to the voters at one or more general city ~~[elections or general]~~ *and* state elections until an amendment is adopted.

B. May be proposed by the City Council and submitted to the registered voters of the City at a general city ~~[election or general]~~ *and* state election.

C. May be proposed by a petition signed by registered voters of the City equal in number to 15 percent or more of the voters who

voted at the latest preceding general city election and submitted to registered voters of the City at the next general city ~~[election or general]~~ *and* state election.

2. The City Attorney shall draft any amendment proposed pursuant to subsections A(2) or B, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.

3. The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to subsection C, make only such corrections as are agreed to by the proposers and report to the City Council his analysis of the significance and potential effects of the proposed amendment.

4. A petition for amendment must be in the form specified by state law for city initiative petitions, and must be filed with the City Clerk not later than 6 months before the date of the general city ~~[election or general]~~ *and* state election at which the proposed amendment is to be submitted to the voters of the City.

5. When an amendment is adopted by the registered voters of the City, the City Clerk shall, within 30 days thereafter, transmit a certified copy of the amendment to the Legislative Counsel.

6. Any amendment to the Charter proposed ~~[under]~~ *pursuant to* the provisions of this section ~~[shall]~~ *must* be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment ~~[shall]~~ *may* become effective. (Add. 25; Amd. 1; 6-3-2003)

Sec. 30. Section 138 of the Charter of Boulder City is hereby amended to read as follows:

Section 138. Sale of public utilities; proviso.

1. No public utility of any kind, after having been acquired by the City, may thereafter be sold or leased by the City, unless the proposition for the sale or lease has been submitted to the electors of the City at a special election ~~[or primary or general]~~ *, a primary* municipal *and state* election *,* or ~~[primary or]~~ *a* general *municipal and* state election. After a majority vote of those electors in favor of the sale, the sale may not be made except after 30 days' published notice thereof, except that the provisions of this section do not apply to a sale by the Council of parts, equipment, trucks, engines and tools, which have become obsolete or worn out, any of which equipment may be sold by the Council in the regular course of business.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the

City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City. (1959 Charter) (Add. 16; Amd. 2; 1-1-1994)

(A—Ch. 345, Stats. 1993 p. 1099)

Sec. 31. *Section 143 of the Charter of Boulder City is hereby amended to read as follows:*

Section 143. Expenditures from Capital Improvement Fund.

1. All expenditures from the Capital Improvement Fund must be approved by a simple majority of the votes cast by the registered voters of the City on a proposition placed before them in a special election ~~[or primary or general]~~ *, a primary* municipal *and state* election , or ~~[primary or]~~ *a* general *municipal and* state election.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City. (Add. 7; Amd. 5; 6-3-1975; Add. 16; Amd. 2; 1-1-1994)

Sec. 32. *Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:*

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Councilman must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he represents.

(c) A resident of the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. All Councilmen, including the Mayor, must be voted upon by the registered voters of the City at large and shall serve for terms of 4 years~~.~~ *, except as otherwise provided in section 5.020.*

5. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council. The City Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Councilmen during the term for which they have been elected or appointed.

Sec. 33. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary election.

1. A primary election must be held on the *twelfth* Tuesday ~~[after the first Monday in April of each odd-numbered year,]~~ *before the general election in November 2012, and at each successive interval of 2 years thereafter,* at which time there must be nominated candidates for offices to be voted for at the next general ~~[municipal]~~ election.

2. A candidate for any office to be voted for at any primary ~~[municipal]~~ election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general election. If in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he is a candidate, he must be declared elected and no general election need be held for that office.

Sec. 34. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 5.020 General ~~[municipal election.]~~ *elections.*

1. ~~[A general election must be held in the City on]~~ *On* the first Tuesday after the first Monday in June ~~[of each odd-numbered year and on the same day every 2 years thereafter, at which time the~~

~~registered voters of the City shall elect city officers to fill the available elective positions.~~

~~2. All candidates for the office of Mayor, Councilman and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015 of this Charter, the term of office for a Municipal Judge is 6 years.~~] *2009, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and a Councilman from the Third Ward, both of whom will hold office until their successors have been elected and qualified pursuant to subsection 7.*

2. On the first Tuesday after the first Monday in June 2007, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified. On the first Tuesday after the first Monday in June 2011, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified pursuant to subsection 6.

3. On the *first* Tuesday after the first Monday in June ~~[2001 and every 6 years thereafter,]~~ *2007,* there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 who will hold office until his successor has been elected and qualified. *On the first Tuesday after the first Monday in November 2012, there must be elected by the qualified voters of the City, at a general election held for that purpose, a Municipal Judge for Department 1 who will hold office until his successor has been elected and qualified pursuant to subsection 8.*

4. On the *first* Tuesday after the first Monday in June ~~[2003 and every 6 years thereafter,]~~ *2009,* there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified. *On the first Tuesday after the first Monday in November 2012, there must be elected by the qualified voters of the City, at a general election held for that purpose, a Municipal Judge for Department 2, who will hold office until his successor has been elected and qualified pursuant to subsection 9.*

5. On the *first* Tuesday after the first Monday in June ~~[2005 and every 6 years thereafter,]~~ *2011,* there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office

until his successor has been elected and qualified ~~[.]~~ *pursuant to subsection 10.*

6. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified.

7. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Mayor and a Councilman from the Third Ward, both of whom will hold office until their successors have been elected and qualified.

8. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 1 who shall hold office until his successor has been elected and qualified.

9. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified.

10. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 3 who will hold office until his successor has been elected and qualified.

11. All candidates for the offices of Mayor, Councilman and Municipal Judge must be voted upon by the registered voters of the City at large. Except as otherwise provided in subsections 1 and 2, the term of office for a member of the City Council and the Mayor is 4 years. Except as otherwise provided in subsections 3, 4 and 5 and subsection 3 of section 4.015, the term of office for a Municipal Judge is 6 years.

Sec. 35. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) One Councilman from each ward.

(c) Municipal Judges.

2. ~~[The]~~ *Except as otherwise provided in section 5.010, the* terms of office of the Mayor and Councilmen are 4 years.

3. Except as otherwise provided in subsection 3 of section 4.010 ~~[of this Charter,]~~ *or section 5.010,* the term of office of a Municipal Judge is 6 years.

Sec. 36. *Section 2.310 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 416, Statutes of Nevada 2001, at page 2101, is hereby amended to read as follows:*

Sec. 2.310 Powers of City Council: Acquisition or establishment of City utility.

1. Except as otherwise provided in subsection 3 of section 2.300 and section 2.315, the City Council, on behalf of the City and in its name, may acquire, establish, hold, manage and operate, alone or with any other government or any instrumentality or subdivision of any government, any public utility in the manner which is provided in this section.

2. The City Council ~~[must]~~ *shall* adopt a resolution which sets forth fully and in detail:

(a) The public utility which is proposed to be acquired or established.

(b) The estimated cost of that utility, as shown in a recent report, which has been approved by the City Council, of an engineer or consulting firm which had previously been appointed by the City Council for that purpose.

(c) The proposed bonded indebtedness which must be incurred to acquire or establish that utility, the terms, amount and rate of interest of that indebtedness and the time within which, and the fund from which, that indebtedness is redeemable.

(d) That a public hearing on the advisability of acquiring the public utility will be held at the first regular meeting of the City Council after the final publication of the resolution.

3. The resolution must be published in full at least once a week for 4 successive weeks.

4. At the first regular meeting of the City Council, or any adjournment of that meeting, after the completion of the publication, the City Council may, without an election, enact an ordinance for that purpose, which must conform in all respects to the terms and conditions of the resolution, unless, within 30 days after the final publication of the resolution, a petition is filed with the City Clerk which has been signed by a number of registered voters of the City which is not less than 15 percent of the registered voters of the City, as shown by the last preceding registration list, who own not less than 10 percent in assessed value of the taxable property within the City, as shown by the last preceding tax list or assessment roll, and which prays for the submission of the question of the enactment of the proposed ordinance at a special election or the next primary ~~[or~~

~~general]~~ municipal *and state* election or ~~[primary or]~~ general *municipal and* state election. Upon the filing of that petition, the proposed ordinance may not be enacted or be effective for any purpose unless, at a special election or primary ~~[or general]~~ municipal *and state* election or ~~[primary or]~~ general *municipal and* state election, a majority of the votes which are cast in that election are cast in favor of the enactment of the ordinance.

5. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City.

6. If the proposed ordinance is adopted, without an election or as a result of an election, the City Council may issue bonds to obtain revenue for acquiring or constructing systems, plants, works, instrumentalities and properties which are needed in connection with that public utility.

Sec. 37. *Section 4.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:*

Sec. 4.010 Municipal Court.

1. There is a Municipal Court of the City which consists of at least two departments, each of which must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first general election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 6 years, as determined by the City Council, in order to effectuate the intent of this provision that, as nearly as practicable ~~[, at]~~ *:*

(a) At least one-third of the number of Municipal Judges be elected every 2 years ~~[,]~~ *; or*

(b) Not more than one-half of the number of Municipal Judges be elected in any 1 year.

4. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 38. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary ~~[municipal]~~ elections.

1. On the Tuesday after the first Monday in April ~~[2001, and at each successive interval of 4 years,]~~ *2009,* a primary municipal election must be held in the City , at which time candidates for ~~[half of the offices of]~~ Councilman *from the Second, Fourth and Sixth Wards* and for Municipal Judge ~~[, Department 2,]~~ *for Departments 1, 4 and 6* must be nominated.

2. ~~[On the Tuesday after the first Monday in April 2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Councilman and for Municipal Judge, Department 1, must be nominated.~~

~~3.]~~ *On the Tuesday after the first Monday in April 2011, a primary election must be held in the City, at which time candidates for Mayor, for Councilman from the First, Third and Fifth Wards and for Municipal Judge for Departments 2, 3 and 5 must be nominated.*

3. On the twelfth Tuesday before the general election in November 2014, and at each successive interval of 4 years, a primary election must be held in the City, at which time candidates for Councilman from the Second, Fourth and Sixth Wards must be nominated.

4. On the twelfth Tuesday before the general election in November 2016, and at each successive interval of 4 years, a primary election must be held in the City, at which time candidates for Mayor and for Councilman from the First, Third and Fifth Wards must be nominated.

5. On the twelfth Tuesday before the general election in November 2016, and at each successive interval of 6 years, a primary election must be held in the City, at which time candidates for Municipal Judge for Departments 1, 4 and 6 must be nominated.

6. On the twelfth Tuesday before the general election in November 2018, and at each successive interval of 6 years, a primary election must be held in the City, at which time candidates for Municipal Judge for Departments 2, 3 and 5 must be nominated.

7. The candidates for Councilman who are to be nominated as provided in subsections 1 ~~[and 2]~~ *to 4, inclusive,* must be nominated and voted for separately according to the respective wards. ~~[The candidates from each even-numbered ward must be nominated as provided in subsection 1, and the candidates from each odd-numbered ward must be nominated as provided in subsection 2.~~

~~4.]~~ *8.* If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 ~~[of this Charter,]~~ and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

~~[5.]~~ *9.* Each candidate for the municipal offices which are provided for in subsections 1 ~~[, 2 and 4]~~ *to 8, inclusive,* must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

~~[6.]~~ *10.* If, in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, he must be declared elected for the term which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general election need be held for that office. If, in the primary election, no candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general election.

Sec. 39. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1415, is hereby amended to read as follows:

Sec. 5.020 General ~~[municipal election.]~~ *elections.*

1. A general ~~[municipal]~~ election must be held in the City on the *first* Tuesday after the ~~[1st]~~ *first* Monday in ~~[June]~~ *November* of each ~~[odd-numbered]~~ *even-numbered* year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.

2. All candidates for elective office, except the office of Councilman, must be voted upon by the registered voters of the City at large.

Sec. 40. Section 5.110 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1416, is hereby amended to read as follows:

Sec. 5.110 Special elections: Registration of electors.

1. If a question is to be submitted to the registered voters of the City at a ~~[municipal or state]~~ primary *municipal and state* or general

municipal and state election, no notice of registration of electors is required other than that which is required by the election laws of the State for that election. If the question is to be submitted at a special municipal election, the City Clerk shall at the expense of the City, cause to be published at least once a week for 5 consecutive weeks by five weekly insertions 1 week apart, the first publication to be not more than 60 days nor less than 45 days next preceding the election, a notice which has been signed by ~~[him]~~ *the City Clerk* to the effect that registration for the special election will be closed on the date which is designated in the notice, as provided in this section.

2. Except as *otherwise* provided in this subsection, the Office of the City Clerk must be open for the special election from 9 a.m. to 12 m. and from 1 p.m. to 5 p.m. on Mondays through Fridays, with legal holidays excepted, for the registration of any qualified elector.

Sec. 41. Section 1.060 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 515, Statutes of Nevada 1997, at page 2451, is hereby amended to read as follows:

Sec. 1.060 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council or in the office of Mayor or Municipal Judge must be filled by a majority vote of the members of the City Council within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official.

2. No such appointment extends beyond the first day of ~~[July]~~ *December* after the next municipal election, at which election the office must be filled for the remaining unexpired term.

Sec. 42. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his election.

(b) A qualified elector within the City.

3. Each Councilman:

(a) Must be a qualified elector who has resided in the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his office.

(b) Must continue to live in the ward he represents, except that changes in ward boundaries made pursuant to section 1.045 ~~[of this Charter]~~ will not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Councilman shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Councilman must be voted upon only by the registered voters of the ward that he seeks to represent, and *except as otherwise provided in section 5.010,* his term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and *except as otherwise provided in section 5.010,* his term of office is 4 years.

7. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 43. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as amended by chapter 73, Statutes of Nevada 2003, at page 484, is hereby amended to read as follows:

Sec. 4.005 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first municipal primary or municipal general election that follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as determined by the City Council, ~~[in order]~~ *so* that, as nearly as practicable, one-third of the number of Municipal Judges ~~[be]~~ *is* elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department ~~[,]~~ *or section 5.010,* each Municipal Judge must be voted upon by the registered voters of the City at large and holds office for a period of 6 years and until his successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 44. *Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:*

Sec. 5.010 General ~~[municipal]~~ elections. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~

1. On the *first* Tuesday after the first Monday in June ~~[1977, and at each successive interval of 4 years thereafter, there must]~~ *2009, there shall* be elected, at a general *municipal* election to be held for that purpose, a Mayor and two Councilmen, who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.]~~ *pursuant to subsection 3.*

2. On the *first* Tuesday after the first Monday in June ~~[1975, and at each successive interval of 4 years thereafter, there must]~~ *2011, there must* be elected, at a general election to be held for that purpose, two Councilmen ~~[,]~~ who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.]~~ *pursuant to subsection 4.*

3. *On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Mayor and two Councilmen, who shall hold office for a period of 4 years and until their successors have been elected and qualified.*

4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, two Councilmen who shall hold office for a period of 4 years and until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a

Municipal Judge for Department 1 who shall hold office for a period of 6 years and until his successor has been elected and qualified.

6. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 2 who shall hold office for a period of 6 years and until his successor has been elected and qualified.

7. In such a general election:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

Sec. 45. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2692, is hereby amended to read as follows:

Sec. 5.020 Primary ~~[municipal]~~ elections; declaration of candidacy. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Councilmen must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Councilmen will seek to represent. A candidate for the office of City Councilman shall include in his declaration of candidacy the number of the ward which he seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he seeks to represent.

2. If for any general municipal election there are three or more candidates for the offices of Mayor or Municipal Judge, or for a particular City Council seat, a primary election for any such office must be held on the *twelfth* Tuesday ~~[following the first Monday in April]~~ preceding the general election. In the primary election:

(a) A candidate for the office of City Councilman must be voted upon only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in subsection 4, after the primary election, the names of the two candidates for Mayor, Municipal Judge

and each City Council seat who receive the highest number of votes must be placed on the ballot for the general election.

4. If one of the candidates for Mayor, Municipal Judge or a City Council seat receives a majority of the total votes cast for that office in the primary election, he ~~[shall]~~ *must* be declared elected to office and his name must not appear on the ballot for the general election.

Sec. 46. *Section 5.080 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 1985, at page 1440, is hereby amended to read as follows:*

Sec. 5.080 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any special, primary or general municipal election ~~[shall]~~ *must* be filed with the City Clerk, who shall immediately place the returns in a safe or vault, and no person may be permitted to handle, inspect or in any manner interfere with the returns until canvassed by the City Council.

2. The City Council shall meet at any time within 16 days after any election and shall canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months, and no person may have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the ~~[1st]~~ *first* day of ~~[July]~~ *December* next following their election.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 47. *On or before February 1, 2012, the governing body of a city incorporated pursuant to general law in a county whose population is 400,000 or more shall adopt the ordinance required pursuant to the provisions of subsection 2 of NRS 293C.115, as amended by section 1.3 of this act.*

Sec. 48. *1. This section and sections 22, 25, 32, 34, 35, 37, 38, 42, 43 and 44 of this act become effective upon passage and approval.*

2. Sections 1 and 2 to 20, inclusive, of this act become effective on October 1, 2007.

3. Sections 1.3, 1.7, 21, 23, 24, 26 to 31, inclusive, 33, 36, 39, 40, 41, 45, 46 and 47 of this act become effective on January 1, 2012.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 25.

Bill read third time.

Roll call on Assembly Bill No. 25:

YEAS—21.

NAYS—None.

Assembly Bill No. 25 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 64.

Bill read third time.

The following amendment was proposed by Senator Nolan:

Amendment No. 967.

"SUMMARY—Makes *failure to wear a safety belt in a motor vehicle a primary offense and makes* various changes concerning the penalties imposed by a court when a defendant fails to properly secure a child in a child restraint system in a vehicle. (BDR 43-268)"

"AN ACT relating to traffic laws; making various changes concerning the penalties imposed by a court when a defendant fails to properly secure a child in a child restraint system in a vehicle; *deleting the provision which limits the issuance of a citation for a person's failure to wear a safety belt; requiring the Attorney General and the Department of Public Safety to conduct certain studies regarding safety belts;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a person who transports a child who is less than 6 years of age and who weighs 60 pounds or less to secure the child in a child restraint system. A court is required to order a defendant who did not comply with that requirement to complete a program of training in the installation and use of child restraint systems, unless the defendant is not a resident of the State of Nevada. The court is further required to impose a fine or require the defendant to perform community service, but may waive a portion of the fine or community service if the program of training certifies to the court that the defendant completed the program of training. ~~[This]~~ *Section 2 of this* bill deletes the requirement that a court order a defendant to undergo a program of training and requires the court to provide the defendant with a referral list of available programs of training. ~~[This bill]~~ *Section 2* also increases the amount of the fine or hours of community service a court may impose for failing to properly secure the child in a child restraint system. Further, for a first offense, a defendant may have the fine or hours of community service waived if he successfully completes a program of training recommended by the court and presents proof of completion of the training to the court. For a

second offense, a defendant may have the fine or hours of community service reduced by half if he did not have the fine or hours of community service waived for his first offense and he successfully completes a program of training recommended by the court and presents proof of completion of the training to the court.

Sections 3 and 4 of this bill remove the provisions of existing law which prohibit the issuance of a citation for failure to wear a safety belt in a motor vehicle unless the vehicle is stopped or its driver is arrested for another offense. (NRS 484.641, 484.6415) By removing those provisions, this bill allows the issuance of a citation for such a violation absent any other conduct. Section 3 also deletes the provision that allows only one citation to be issued to a driver if the driver and a passenger who is less than 18 years of age are not wearing safety belts. By removing that provision, this bill requires a driver to be issued two citations. Section 5 of this bill provides that for the first 6 months following October 1, 2007, a peace officer is prohibited from issuing a citation for failure to wear a safety belt in a motor vehicle unless the vehicle is stopped or the person is arrested for another offense. Instead, only a warning may be issued by the peace officer.

Section 6 of this bill requires the Attorney General to conduct a study on traffic stops made for safety belt violations to determine the identifying characteristics of the driver. Section 7 of this bill requires the Department of Public Safety to conduct a study of the number of safety belt violations and the number of traffic accidents in which safety belts were not worn from October 1, 2006, to September 30, 2007, and from October 1, 2007, to September 30, 2008. The Attorney General and the Department shall compile the results of their respective studies and submit reports to the Chairmen of the Transportation Committees. Section 8 of this bill requires the Senate Standing Committee on Transportation and Homeland Security and the Assembly Standing Committee on Transportation to review the reports to determine whether it is advisable to repeal the provisions set forth in sections 3 and 4 of this bill regarding safety belt violations.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 484.474 is hereby amended to read as follows:

484.474 1. Except as otherwise provided in subsection 7, any person who is transporting a child who is less than 6 years of age and who weighs 60 pounds or less in a motor vehicle operated in this State which is equipped to carry passengers shall secure the child in a child restraint system which:

(a) Has been approved by the United States Department of Transportation in accordance with the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. Part 571;

(b) Is appropriate for the size and weight of the child; and

(c) Is installed within and attached safely and securely to the motor vehicle:

(1) In accordance with the instructions for installation and attachment provided by the manufacturer of the child restraint system; or

(2) In another manner that is approved by the National Highway Traffic Safety Administration.

2. If a defendant pleads or is found guilty of violating the provisions of subsection 1, the court shall:

(a) ~~[In addition to any other penalty imposed by law, order the defendant to complete a program of training conducted by a person or agency approved by the Department of Public Safety in the installation and use of child restraint systems, except that the court shall waive the requirements of this paragraph if the defendant is not a resident of the State of Nevada; and~~

~~(b) Except as otherwise provided in this paragraph, order the defendant to pay a fine of not less than $50 nor more than $500, or order the defendant to perform not less than 8 hours nor more than 50 hours of community service. The court may:~~

~~(1) For a first offense by a defendant who completes a program of training described in paragraph (a), waive any amount of the fine or any amount of the community service; and~~

~~(2) For a second or subsequent offense by a defendant who completes a program of training described in paragraph (a), waive any amount of the fine in excess of $50 or any amount of the community service in excess of 8 hours,~~

~~➥ if the person or agency which provided the program of training to the defendant certifies to the court that the defendant has completed the program of training required by paragraph (a), has paid the fee, if any, established for the program pursuant to subsection 4 and has presented for inspection by the person or agency an installed child restraint system that satisfies the provisions of subsection 1. The provisions of this paragraph do not authorize the waiver of any fee established by a person or agency pursuant to subsection 4.]~~ *For a first offense, order the defendant to pay a fine of not less than $100 nor more than $500 or order the defendant to perform not less than 10 hours nor more than 50 hours of community service;*

(b) For a second offense, order the defendant to pay a fine of not less than $500 nor more than $1000 or order the defendant to perform not less than 50 hours nor more than 100 hours of community service; and

(c) For a third or subsequent offense, suspend the driver's license of the defendant for not less than 30 days nor more than 180 days.

3. ~~[The]~~ *At the time of sentencing, the* court shall ~~[make available]~~ *provide the defendant with* a list of persons and agencies approved by the Department of Public Safety to conduct programs of training and perform inspections of child restraint systems. The list must include, without limitation, an indication of the fee, if any, established by the person or agency pursuant to subsection 4. *If, within 60 days after sentencing, a defendant provides the court with proof of satisfactory completion of a program of training provided for in this subsection, the court shall:*

(a) If the defendant was sentenced pursuant to paragraph (a) of subsection 2, waive the fine or community service previously imposed; or

(b) If the defendant was sentenced pursuant to paragraph (b) of subsection 2, reduce by one-half the fine or community service previously imposed.

➥ *A defendant is only eligible for a reduction of a fine or community service pursuant to paragraph (b) if he has not had a fine or community service waived pursuant to paragraph (a).*

4. A person or agency approved by the Department of Public Safety to conduct programs of training and perform inspections of child restraint systems may, in cooperation with the Department, establish a fee to be paid by defendants who are ordered to complete a program of training. The amount of the fee, if any:

(a) Must be reasonable; and

(b) May, if a defendant desires to acquire a child restraint system from such a person or agency, include the cost of a child restraint system provided by the person or agency to the defendant.

➥ A program of training may not be operated for profit.

5. For the purposes of NRS 483.473, a violation of this section is not a moving traffic violation.

6. A violation of this section may not be considered:

(a) Negligence in any civil action; or

(b) Negligence or reckless driving for the purposes of NRS 484.377.

7. This section does not apply:

(a) To a person who is transporting a child in a means of public transportation, including a taxi, school bus or emergency vehicle.

(b) When a physician determines that the use of such a child restraint system for the particular child would be impractical or dangerous because of such factors as the child's weight, physical unfitness or medical condition. In this case, the person transporting the child shall carry in the vehicle the signed statement of the physician to that effect.

8. As used in this section, "child restraint system" means any device that is designed for use in a motor vehicle to restrain, seat or position children. The term includes, without limitation:

(a) Booster seats and belt-positioning seats that are designed to elevate or otherwise position a child so as to allow the child to be secured with a safety belt;

(b) Integrated child seats; and

(c) Safety belts that are designed specifically to be adjusted to accommodate children.

Sec. 3. *NRS 484.641 is hereby amended to read as follows:*

484.641 1. It is unlawful to drive a passenger car manufactured after:

(a) January 1, 1968, on a highway unless it is equipped with at least two lap-type safety belt assemblies for use in the front seating positions.

(b) January 1, 1970, on a highway, unless it is equipped with a lap-type safety belt assembly for each permanent seating position for passengers. This requirement does not apply to the rear seats of vehicles operated by a police department or sheriff's office.

(c) January 1, 1970, unless it is equipped with at least two shoulder-harness-type safety belt assemblies for use in the front seating positions.

2. Any person driving, and any passenger who:

(a) Is 6 years of age or older; or

(b) Weighs more than 60 pounds, regardless of age,

➥ who rides in the front or back seat of any vehicle described in subsection 1, having an unladen weight of less than 10,000 pounds, on any highway, road or street in this State shall wear a safety belt if one is available for his seating position.

3. A citation must be issued to any driver or to any adult passenger who fails to wear a safety belt as required by subsection 2. If the passenger is a child who:

(a) Is 6 years of age or older but less than 18 years of age, regardless of weight; or

(b) Is less than 6 years of age but who weighs more than 60 pounds,

➥ a citation must be issued to the driver for his failure to require that child to wear the safety belt. ~~[, but if both the driver and that child are not wearing safety belts, only one citation may be issued to the driver for both violations. A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense.]~~ Any person who violates the provisions of subsection 2 shall be punished by a fine of not more than $25 or by a sentence to perform a certain number of hours of community service.

4. A violation of subsection 2:

(a) Is not a moving traffic violation under NRS 483.473.

(b) May not be considered as negligence or as causation in any civil action or as negligent or reckless driving under NRS 484.377.

(c) May not be considered as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product.

5. The Department shall exempt those types of motor vehicles or seating positions from the requirements of subsection 1 when compliance would be impractical.

6. The provisions of subsections 2 and 3 do not apply:

(a) To a driver or passenger who possesses a written statement by a physician certifying that he is unable to wear a safety belt for medical or physical reasons;

(b) If the vehicle is not required by federal law to be equipped with safety belts;

(c) To an employee of the United States Postal Service while delivering mail in the rural areas of this State;

(d) If the vehicle is stopping frequently, the speed of that vehicle does not exceed 15 miles per hour between stops and the driver or passenger is frequently leaving the vehicle or delivering property from the vehicle; or

(e) Except as otherwise provided in NRS 484.6415, to a passenger riding in a means of public transportation, including a school bus or emergency vehicle.

7. It is unlawful for any person to distribute, have for sale, offer for sale or sell any safety belt or shoulder harness assembly for use in a motor vehicle unless it meets current minimum standards and specifications of the United States Department of Transportation.

8. A peace officer may only search a vehicle halted pursuant to this section as permitted by the Constitution of the United States and the Constitution and laws of this State.

Sec. 4. NRS 484.6415 is hereby amended to read as follows:

484.6415 1. Any passenger 18 years of age or older who rides in the front or back seat of any taxicab on any highway, road or street in this State shall wear a safety belt if one is available for his seating position, except that this subsection does not apply:

(a) To a passenger who possesses a written statement by a physician certifying that he is unable to wear a safety belt for medical or physical reasons; or

(b) If the taxicab was not required by federal law at the time of initial sale to be equipped with safety belts.

2. A citation must be issued to any passenger who violates the provisions of subsection 1. ~~[A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense.]~~ Any person who violates the provisions of subsection 1 shall be punished by a fine of not more than $25 or by a sentence to perform a certain number of hours of community service.

3. A violation of subsection 1:

(a) Is not a moving traffic violation under NRS 483.473.

(b) May not be considered as negligence or as causation in any civil action or as negligent or reckless driving under NRS 484.377.

(c) May not be considered as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product.

4. An owner or operator of a taxicab shall post a sign within each of his taxicabs advising passengers that they must wear safety belts while being transported by the taxicab. Such a sign must be placed within the taxicab so as to be visible to and easily readable by passengers, except that this subsection does not apply if the taxicab was not required by federal law at the time of initial sale to be equipped with safety belts.

Sec. 5. Notwithstanding the amendatory provisions of this act, for the 6-month period following October 1, 2007, a peace officer shall not issue a citation, but may issue a warning, for a safety belt violation pursuant to subsection 2 of NRS 484.641 or subsection 1 of NRS 484.6415 unless the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation.

Sec. 6. 1. The Attorney General shall conduct a study for the calendar years 2009 and 2010 of stops made pursuant to NRS 484.641 and 484.6415 by the Nevada Highway Patrol and in counties whose population is 100,000 or more by metropolitan police departments, sheriffs and their deputies, and city police chiefs and their officers. Each such law enforcement agency shall cooperate fully in the study.

2. To carry out this study, the Attorney General shall, based upon the recommendations of the Director of the Department of Motor Vehicles and the Director of the Department of Public Safety and the heads of the affected local law enforcement agencies, prescribe the form and manner of collecting and transmitting information regarding each stop made pursuant to NRS 484.641 and 484.6415. The information required to be collected and transmitted to the Attorney General must include, without limitation:

(a) The identifying characteristics of the driver who was stopped, including, without limitation, the driver's race, ethnicity, gender and approximate age.

(b) A statement of whether any citation was issued as a result of the stop.

3. The Attorney General may collect reports from individual law enforcement officers regarding stops made by other law enforcement officers and from drivers who were the subject of a stop. Any such report may be submitted anonymously, and must be kept confidential.

4. The Attorney General shall compile the results of the information collected pursuant to subsections 2 and 3 and report it in statistical form. All identifying information regarding the particular law enforcement officers who made the stops and the drivers who were stopped must remain confidential.

5. The Attorney General may apply for any available grants and accept gifts, grants or donations to assist the Attorney General in conducting the study.

6. The Attorney General may enter into a contract or agreement with a public or private agency that has the experience necessary to conduct a study of the type described in subsection 2.

7. On or before February 1, 2011, the Attorney General shall submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to the Chairman of the Senate Standing Committee on Transportation and Homeland Security and the Chairman of the Assembly Standing Committee on Transportation.

Sec. 7. 1. The Department of Public Safety shall conduct a study on safety belt violations in this State. The study must review:

(a) The number of violations of NRS 484.641 and 484.6415 from October 1, 2006, to September 30, 2007;

(b) The number of violations of NRS 484.641 and 484.6415 from October 1, 2007, to September 30, 2008;

(c) The number of traffic accidents in this State in which safety belts were not worn from October 1, 2006, to September 30, 2007; and

(d) The number of traffic accidents in this State in which safety belts were not worn from October 1, 2007, to September 30, 2008.

2. The Department of Public Safety shall complete the study and submit a copy of its findings and recommendations on or before February 1, 2009, to the Director of the Legislative Counsel Bureau for transmittal to the Chairman of the Senate Standing Committee on Transportation and Homeland Security and the Chairman of the Assembly Standing Committee on Transportation.

Sec. 8. Upon receipt of the report issued by the Attorney General pursuant to section 6 of this act and the report issued by the Department of Public Safety pursuant to section 7 of this act, the Senate Standing Committee on Transportation and Homeland Security and the Assembly Standing Committee on Transportation shall review those reports and determine whether it is advisable to repeal the amendatory provisions of sections 3 and 4 of this act.

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan, Care, Carlton .

Motion lost on a division of the house.

Roll call on Assembly Bill No. 64:

YEAS—21.

NAYS—None.

Assembly Bill No. 64 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 209.

Bill read third time.

The following amendment was proposed by Senator McGinness:

Amendment No. 994.

"SUMMARY—Makes various changes regarding the imposition and administration of property taxes. (BDR 32-469)"

"AN ACT relating to the taxation of property; revising the provisions governing certain exemptions from taxes and appeals by taxpayers; revising certain requirements for the assessment of common-interest communities; revising the provisions governing the calculation of certain partial abatements of taxes and the collection of taxes following certain fluctuations in taxable value; requiring the Committee on Local Government Finance to adopt regulations for the allocation of certain reductions in revenue resulting from the partial abatement of taxes; providing limitations upon certain

requests for the waiver of interest and penalties imposed for the late payment of taxes; ~~[repealing]~~ *postponing* the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires each county assessor to provide certain information regarding property taxes on the Internet. (NRS 361.0445) Section 1 of this bill authorizes a county assessor to disseminate, by additional means, certain information to the public concerning the taxation of property.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) Section 2 of this bill simplifies the administration of this exemption by removing any calculation of the value of such a qualified system from the determination of the assessed value of a building to which the exemption applies.

Existing law provides partial exemptions from property taxes for the property of surviving spouses, blind persons, veterans, disabled veterans and certain veterans' organizations, and provides for annual increases in those exemptions beginning with the 2006-2007 Fiscal Year based upon the increase in the Consumer Price Index from July 2004. (NRS 361.080, 361.085, 361.090, 361.091, 361.095) Sections 3-7 of this bill provide for the commencement of those annual increases during the 2005-2006 Fiscal Year based upon the increase in the Consumer Price Index from July 2003.

Section 7.5 of this bill provides an exemption from property taxes for certain property held by the Archaeological Conservancy.

Section 8 of this bill repeals a $5,000 limitation on the amount of an exemption from property taxes applicable to the funds, furniture, paraphernalia and regalia of certain lodges and other charitable organizations. (NRS 361.135)

Existing law requires the filing of claims for personal tax exemptions on real property, and the initial claim of an organization for a tax exemption on real property, to be filed on or before June 15. (NRS 361.155) Section 9 of this bill extends that deadline to July 5 for real property acquired after June 15 and before July 1.

Existing law provides for the assessment of property taxes for a common-interest community on the community units and not on the common elements of the community. (NRS 361.233) Section 10 of this bill specifies the methodology for determining the taxable value of a parcel that includes such a community unit and clarifies the definitions of "community unit" and "common elements" for this purpose.

Existing law allows taxpayers to appeal the amount of certain assessments of their property to the State Board of Equalization. (NRS 361.360) Section 11 of this bill limits the effect of a change in assessment resulting from such an appeal to the fiscal year for which the assessment was made.

~~[Under existing law, a property owner may protest the payment of taxes claimed to be in excess of the amount justly due and, if the State Board of Equalization denies relief, commence a legal proceeding in any county of this State to recover any overpayment. (NRS 361.420) Existing law authorizes a property owner to consolidate similar suits regarding property in more than one county into a single legal action. (NRS 361.435) Sections 12 and 13 of this bill clarify that these proceedings consist of a judicial review of the decision of the State Board of Equalization and limit the locations where these proceedings may be brought.]~~

Existing law provides for a generally applicable partial abatement of the property taxes levied on property for which an assessed valuation has previously been established or on a remainder parcel of property, based upon the average change in the assessed valuation of property in the county over the last 10 years or twice the increase in the Consumer Price Index for the last year, whichever is greater. (NRS 361.4722) Section 15 of this bill ensures that this partial abatement cannot be less than zero nor greater than 8 percent.

Existing law exempts from certain partial abatements of property taxes certain increases in the taxable value of property following large fluctuations in that value and requires the collection of the resulting taxes due over a period of 3 years. (NRS 361.4725) Section 19 of this bill allows the collection of the amount due in a single year if that amount does not exceed $100 and authorizes the Nevada Tax Commission to exempt from collection any amount which is less than the cost of collection.

Existing law provides formulas for the allocation of reductions in revenue resulting from certain partial abatements of property taxes applicable to property for which the tax rate increases and authorizes the Committee on Local Government Finance to adopt regulations for the administration and interpretation of those formulas. (NRS 361.473, 361.4731, 361.4733) Section 23 of this bill requires the Committee to adopt such regulations as it determines to be appropriate, in accordance with certain specified principles, for the allocation of reductions in revenue resulting from those partial abatements of property taxes. Section 29 of this bill ratifies the regulations previously adopted by the Committee and requires the adoption of additional regulations not later than December 31, 2007. Section 28 of this bill repeals the existing formulas after the adoption of the additional regulations.

Existing law allows a taxpayer to petition the tax receiver for the review of a determination regarding the applicability of certain partial abatements from property taxes. (NRS 361.4734) Section 25 of this bill requires the submission of the petition on or before January 15 of the fiscal year for which the determination is effective.

Existing law authorizes a county treasurer or county assessor to waive all or part of the interest or penalty due from a person who fails to make a timely payment of property taxes as a result of circumstances beyond his control and who files a statement setting forth the facts of his claim. (NRS 361.4835)

Section 26 of this bill requires a person seeking such relief to pay the amount of the taxes due and file the statement within 30 days after that payment is made.

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) ~~[Sections 27 and 28]~~ *Section 27* of this bill ~~[provide]~~ *provides* for the continuation of this funding *during the next biennium* by ~~[repealing]~~ *postponing* its prospective expiration ~~[on July 1, 2007.]~~ *until June 30, 2009.*

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

Section 1. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A county assessor may, by regular mail, electronic means or any other means the assessor deems appropriate, disseminate information to the public concerning the taxation of property, including, without limitation, information relating to the valuation and assessment of property, exemptions from taxation, the declaration of a homestead and programs for the assistance of senior citizens.

2. Any information provided pursuant to subsection 1 must, to the extent practicable, be in a form that is easily understood and readily accessible to the public.

Sec. 2. NRS 361.079 is hereby amended to read as follows:

361.079 1. Except as otherwise provided in subsection 2, ~~[for any assessment made on or after July 1, 1983, any value added by]~~ *the value of* a qualified system must ~~[be excluded from]~~ *not be included in* the assessed value of ~~[the building regardless of the date the system was installed.~~

~~2. Value]~~ *a building.*

2. Any value added by a qualified system must ~~[not be excluded from]~~ *be included in* the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption *pursuant to NRS 361.045 to 361.159, inclusive,* from the taxes imposed by this chapter.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

(a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

➥ which conforms to standards established by regulation of the Department.

Sec. 3. NRS 361.080 is hereby amended to read as follows:

361.080 1. The property of surviving spouses, not to exceed the amount of $1,000 assessed valuation, is exempt from taxation, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State to the same family.

2. For the purpose of this section, property in which the surviving spouse has any interest shall be deemed the property of the surviving spouse.

3. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of this State and that the exemption has been claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

6. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 4. NRS 361.085 is hereby amended to read as follows:

361.085 1. The property of all blind persons, not to exceed the amount of $3,000 of assessed valuation, is exempt from taxation, including community property to the extent only of the blind person's interest therein, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State on account of the same blind person.

2. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of the State of Nevada who meets all the other requirements for the exemption and that the exemption is not claimed in any other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

3. Upon first claiming the exemption in a county , the claimant shall furnish to the assessor a certificate of a licensed physician setting forth that he has examined the claimant and has found him to be a blind person.

4. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

5. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

6. As used in this section, "blind person" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20°.

Sec. 5. NRS 361.090 is hereby amended to read as follows:

361.090 1. The property, to the extent of $2,000 assessed valuation, of any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 continuous days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(c) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the government of the United States, regardless of the number of days served on active duty,

➥ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first $2,000 assessed valuation of property in which an applicant has any interest shall be deemed the property of the applicant.

3. The exemption may be allowed only to a claimant who files an affidavit with his claim for exemption on real property pursuant to

NRS 361.155. The affidavit may be filed at any time by a person claiming exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county in this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Persons in actual military service are exempt during the period of such service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to such persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his behalf during the period of such service by any person having knowledge of the facts.

6. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the county assessor shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

7. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

8. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 6. NRS 361.091 is hereby amended to read as follows:

361.091 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his surviving spouse, is entitled to a disabled veteran's exemption.

2. The amount of exemption is based on the total percentage of permanent service-connected disability. The maximum allowable exemption

for total permanent disability is the first $20,000 assessed valuation. A person with a permanent service-connected disability of:

(a) Eighty to 99 percent, inclusive, is entitled to an exemption of $15,000 assessed value.

(b) Sixty to 79 percent, inclusive, is entitled to an exemption of $10,000 assessed value.

➥ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

3. The exemption may be allowed only to a claimant who has filed an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that he meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require him to produce an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his permanent service-connected disability;

(b) A certificate of satisfactory service which indicates the total percentage of his permanent service-connected disability; or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he has incurred a permanent service-connected disability and which indicates the total percentage of that disability, together with a certificate of honorable discharge or satisfactory service.

6. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the disabled veteran for the 5 years preceding his death;

(b) The disabled veteran was eligible for the exemption at the time of his death or would have been eligible if he had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

➥ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 4 and 5. After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

7. If a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent.

8. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

9. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

10. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amounts in subsection 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 7. NRS 361.095 is hereby amended to read as follows:

361.095 1. The funds, furniture, paraphernalia and regalia owned and used exclusively by any post of any national organization of ex-servicemen or ex-servicewomen for the legitimate purposes and customary objects of such posts are exempt from taxation, but such an exemption must not exceed the sum of $10,000 assessed valuation to any one post or organization thereof.

2. The buildings, with their fixtures and the lots of ground on which they stand, used for its legitimate purposes and necessary thereto, of any such organization are exempt from taxation, but when any such property is used for purposes other than those of such an organization, and a rent or other valuable consideration is received for its use, the property so used must be taxed.

3. Where any structure or parcel of land is used partly for the purposes of such an organization and partly for rental purposes, the area used for rental purposes must be assessed separately and that portion only may be taxed.

4. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July

preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 7.5. NRS 361.111 is hereby amended to read as follows:

361.111 1. Except as otherwise provided in subsections 2 and 3, all real property and improvements thereon acquired by the *Archaeological Conservancy,* Nature Conservancy, American Land Conservancy or Nevada Land Conservancy and held for ultimate acquisition by the State or a local governmental unit are exempt from taxation if:

(a) The State or a local governmental unit has agreed, in writing, that acquisition of the property will be given serious consideration; and

(b) For property for which the State has given the statement required by paragraph (a), the governing body of the county in which the property is located has approved the potential acquisition of the property by the State.

2. When the *Archaeological Conservancy,* Nature Conservancy, American Land Conservancy or Nevada Land Conservancy transfers property it has held for purposes of conservation to any person, partnership, association, corporation or entity other than the State or a local governmental unit, the property must be assessed at the rate set for first-class pasture by the Nevada Tax Commission for each year it was exempt pursuant to subsection 1 and the taxes must be collected as other taxes under this chapter are collected.

3. When the *Archaeological Conservancy,* Nature Conservancy, American Land Conservancy or Nevada Land Conservancy transfers property it has held for purposes other than conservation to any person, partnership, association, corporation or entity other than the State or a local governmental unit, the tax imposed by this chapter must be assessed against the property for each year it was exempt pursuant to subsection 1 and collected in the manner provided in this chapter.

4. The Nevada Tax Commission shall adopt regulations specifying the criteria for determining when property has been held by the *Archaeological Conservancy,* Nature Conservancy, American Land Conservancy or Nevada Land Conservancy for purposes of conservation.

Sec. 8. NRS 361.135 is hereby amended to read as follows:

361.135 1. The funds, furniture, paraphernalia and regalia owned by any lodge of the Benevolent Protective Order of Elks, Fraternal Order of Eagles, Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias or Knights of Columbus, or by any similar charitable organization, or by the Lahontan Audubon Society, the National Audubon Society, Inc., of New York, the Defenders of Wildlife of the District of Columbia or any similar benevolent or charitable society, so long as ~~[the same shall be]~~ *they are* used for the legitimate purposes of such lodge or society or for such charitable or benevolent purposes, ~~[shall be]~~ *are* exempt from taxation . ~~[, but such exemption shall in no case exceed the sum of $5,000 assessed valuation to any one lodge, society or organization.]~~

2. The real estate and fixtures of any such organization or society ~~[shall be]~~ *are* exempt from taxation, but when any such property is used for purposes other than those of such organization or society, and a rent or other valuable consideration is received for its use, the property so used ~~[shall]~~ *must* be taxed.

3. Where any structure or parcel of land is used partly for the purposes of such organization or society and partly for rental purposes, the area used for rental purposes ~~[shall]~~ *must* be assessed separately and that portion only ~~[shall]~~ *may* be taxed.

Sec. 9. NRS 361.155 is hereby amended to read as follows:

361.155 1. ~~[All]~~ *Except as otherwise provided in this subsection, all* claims for personal tax exemptions on real property, the initial claim of an organization for a tax exemption on real property and the designation of any amount to be credited to the Gift Account for Veterans' Homes pursuant to NRS 361.0905 must be filed on or before June 15. *An initial claim for a tax exemption on real property acquired after June 15 and before July 1 must be filed on or before July 5.*

2. All exemptions provided for pursuant to this chapter apply on a fiscal year basis and any exemption granted pursuant to this chapter must not be in an amount which gives the taxpayer a total exemption greater than that to which he is entitled during any fiscal year.

~~[2.]~~ *3.* Each claim for an exemption provided for pursuant to this chapter must be filed with the county assessor of:

(a) The county in which the claimant resides for personal tax exemptions; or

(b) Each county in which property is located for the tax exemption of an organization.

~~[3.]~~ *4.* After the initial claim for an exemption pursuant to NRS 361.088 or 361.098 to 361.150, inclusive, an organization is not required to file annual claims if the property remains exempt. If any portion of the property loses its exemption pursuant to NRS 361.157 or for any other reason becomes taxable, the organization must notify the county assessor.

~~[4.]~~ *5.* If an exemption is granted or renewed in error because of an incorrect claim or failure of an organization to give the notice required by subsection ~~[3,]~~ *4,* the assessor shall assess the taxable portion of the property retroactively pursuant to NRS 361.769 and a penalty of 10 percent of the tax due for the current year and any prior years may be added.

Sec. 10. NRS 361.233 is hereby amended to read as follows:

361.233 1. Notwithstanding any other provision of law:

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:

(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

(b) ~~[Each community unit must be assessed separately for the purposes of ad valorem taxes and special assessments.~~

~~(c) Any lien created by the levy of an ad valorem tax or special assessment upon a community unit applies only to the community unit assessed and does not apply to any other portion of the common interest community.]~~ *The taxable value of each parcel:*

(1) Composed solely of a community unit must consist of:

(I) The taxable value of that community unit; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community; or

(2) Composed of a community unit and any portion of the common elements of the common-interest community must consist of:

(I) The taxable value of that community unit only; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community.

2. *The Nevada Tax Commission shall adopt such regulations as it determines to be appropriate to ensure that this section is carried out in a uniform and equal manner that does not result in the double taxation of any common elements of a common-interest community.*

3. For the purposes of this section:

(a) "Ad valorem tax" means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) "Common elements" means ~~[all real property within]~~ *the physical portion of* a common-interest community ~~[other than the community units,]~~ *, including, without limitation, any landscaping, swimming pools, fitness centers, community centers, maintenance and service areas, parking areas, hallways, elevators and mechanical rooms,* which is ~~[owned:]~~ *:*

(1) *Intended for the general benefit of and potential use by all the owners of the community units and their invitees; and*

(2) Owned:

(I) By the community association;

~~[(2)]~~ *(II)* By any person on behalf or for the benefit of the owners of the community units; or

~~[(3)]~~ *(III)* Jointly by the owners of the community units.

(c) "Common-interest community" means real property with respect to which a person, by virtue of his ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, a condominium project governed by the provisions of chapter 117 of NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) "Community association" means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community ~~[designated]~~ *, other than the common elements, which is:*

(1) Designated for separate ownership or occupancy ~~[.]~~ *; and*

(2) Intended for:

(I) Residential use by the owner of that unit and his invitees; or

(II) Commercial use by the owner of that unit for the generation of revenue from any persons other than the owners of community units in that common-interest community and their invitees.

(f) "Special assessment" means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

Sec. 11. NRS 361.360 is hereby amended to read as follows:

361.360 1. Any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 and present to the State Board of Equalization the matters complained of at one of its sessions. If March 10 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. All such appeals must be presented upon the same facts and evidence as were submitted to the county board of equalization in the first instance, unless there is discovered new evidence pertaining to the matter which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization. The new evidence must be submitted in writing to the State Board of Equalization and served upon the county assessor not less than 7 days before the hearing.

3. Any taxpayer whose real or personal property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 may likewise protest to the State Board of Equalization. Every such appeal must be filed on or before May 15. If May 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. A meeting must be held before May 31 to hear those protests that in the opinion of the State Board of Equalization may have a substantial effect on tax revenues. One or more meetings may be held at any time and place in the State before October 1 to hear all other protests.

4. The State Board of Equalization may not reduce the assessment of the county assessor if:

(a) The appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include in the list required of him pursuant to NRS 361.265 or *if the taxpayer* has refused or, without good cause, has neglected to provide the list to the county assessor; or

(b) The taxpayer has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination authorized by NRS 361.260.

5. *Any change made in an assessment appealed to the State Board of Equalization is effective only for the fiscal year for which the assessment was made.* The county assessor shall *review* each ~~[year review any]~~ *such* change ~~[made in an assessment for the previous fiscal year]~~ and maintain or remove the change as circumstances warrant ~~[.]~~ *for the next fiscal year.*

6. If the State Board of Equalization determines that the record of a case on appeal from the county board of equalization is inadequate because of an act or omission of the county assessor, the district attorney or the county board of equalization, the State Board of Equalization may remand the case to the county board of equalization with directions to develop an adequate record within 30 days after the remand. The directions must indicate specifically the inadequacies to be remedied. If the State Board of Equalization determines that the record returned from the county board of equalization after remand is still inadequate, the State Board of Equalization may hold a hearing anew on the appellant's complaint or it may, if necessary, contract with an appropriate person to hear the matter, develop an adequate record in the case and submit recommendations to the State Board. The cost of the contract and all costs, including attorney's fees, to the State or the appellant necessary to remedy the inadequate record on appeal are a charge against the county.

Sec. 12. ~~[NRS 361.420 is hereby amended to read as follows:~~

~~361.420 1. Any property owner whose taxes are in excess of the amount which the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The protest must be in the form of a separate, signed statement from the property owner and filed with the tax receiver at the time of the payment of the installment of taxes.~~

~~2. The property owner, having protested the payment of taxes as provided in subsection 1 and having been denied relief by the State Board of Equalization, may [commence a suit] *file for the judicial review of the decision of the State Board of Equalization* in any court of competent jurisdiction in the [State of Nevada] *county in which the taxes were paid* against the State and county in which the taxes were paid, and, in a proper case, both the Nevada Tax Commission and the Department may be joined as a defendant for a recovery of the difference between the amount of taxes paid and the amount which the owner claims justly to be due, and the owner may complain upon any of the grounds contained in subsection 4.~~

~~3. Every action commenced under the provisions of this section must be commenced within 3 months after the date of the payment of the last installment of taxes, and if not so commenced is forever barred. If the tax complained of is paid in full and under the written protest provided for in this section, at the time of the payment of the first installment of taxes, suit for the recovery of the difference between the amount paid and the amount~~

~~claimed to be justly due must be commenced within 3 months after the date of the full payment of the tax or the issuance of the decision of the State Board of Equalization denying relief, whichever occurs later, and if not so commenced is forever barred.~~

~~4. In any suit brought under the provisions of this section, the person assessed may complain or defend upon any of the following grounds:~~

~~(a) That the taxes have been paid before the suit;~~

~~(b) That the property is exempt from taxation under the provisions of the revenue or tax laws of the State, specifying in detail the claim of exemption;~~

~~(c) That the person assessed was not the owner and had no right, title or interest in the property assessed at the time of assessment;~~

~~(d) That the property is situate in and has been assessed in another county, and the taxes thereon paid;~~

~~(e) That there was fraud in the assessment or that the assessment is out of proportion to and above the taxable cash value of the property assessed;~~

~~(f) That the assessment is out of proportion to and above the valuation fixed by the Nevada Tax Commission for the year in which the taxes were levied and the property assessed; or~~

~~(g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the State is assessed.~~

~~5. In a suit based upon any one of the grounds mentioned in paragraphs (e), (f) and (g) of subsection 4, the court shall conduct the trial without a jury and confine its review to the record before the State Board of Equalization. Where procedural irregularities by the Board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.~~

~~6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.~~

~~7. In any judgment recovered by the taxpayer under this section, the court may provide for interest thereon not to exceed 6 percent per annum from and after the date of payment of the tax complained of.~~] *(Deleted by amendment.)*

Sec. 13. ~~[NRS 361.435 is hereby amended to read as follows:~~

~~361.435 Any property owner owning property of like kind in more than one county in the State and desiring to proceed with a suit under the provisions of NRS 361.420 may, where the issues in the cases are substantially the same in all or in some of the counties concerning the assessment of taxes on such property, consolidate any of the suits in one action and bring the action in any court of competent jurisdiction in [Carson City,] the county of this State where the property owner resides or maintains~~

~~his principal place of business or a county in which any relevant proceedings were conducted by the Department.]~~ *(Deleted by amendment.)*

Sec. 14. NRS 361.471 is hereby amended to read as follows:

361.471 As used in NRS 361.471 to 361.4735, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[361.4711 to 361.4721, inclusive,]~~ *361.4712, 361.4715 and 361.4721* have the meanings ascribed to them in those sections.

Sec. 15. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[,]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, the owner of any remainder parcel

of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[,]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS 361.473 to 361.4733, inclusive, and any regulations adopted pursuant thereto, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section ~~[:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Remainder]~~ *, "remainder* parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~[(c) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 16. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[.]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[,]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section ~~[:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Remainder]~~ *, "remainder* parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~[(c) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 17. NRS 361.4723 is hereby amended to read as follows:

361.4723 The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of

that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution. The Legislature therefore directs a partial abatement of taxes for such homeowners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, the owner of a single-family residence which is the primary residence of the owner is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to any property for which:

(a) No assessed valuation was separately established for the immediately preceding fiscal year; or

(b) The provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section, including, without limitation, regulations providing a methodology for applying the partial abatement provided pursuant to subsection 1 to a parcel of real property of which only a portion

qualifies as a single-family residence which is the primary residence of the owner and the remainder is used in another manner.

5. The owner of a single-family residence does not become ineligible for the partial abatement provided pursuant to subsection 1 as a result of:

(a) The operation of a home business out of a portion of that single-family residence; or

(b) The manner in which title is held by the owner if the owner occupies the residence, including, without limitation, if the owner has placed the title in a trust for purposes of estate planning.

6. For the purposes of this section:

(a) ~~["Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b)]~~ "Primary residence of the owner" means a residence which:

(1) Is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State; and

(2) Is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.

~~[(c)]~~ *(b)* "Single-family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

~~[(d) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.~~

~~(e)]~~ *(c)* "Unit of personal property" includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

➥ if classified as personal property for the purposes of this chapter.

~~[(f)]~~ *(d)* "Unit of real property" includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter.

Sec. 18. NRS 361.4724 is hereby amended to read as follows:

361.4724 The Legislature hereby finds and declares that many Nevadans who cannot afford to own their own homes would be adversely affected by large unanticipated increases in property taxes, as those tax increases are passed down to renters in the form of rent increases and therefore the benefits of a charitable exemption pursuant to subsection 8 of Section 1 of Article 10 of the Nevada Constitution should be afforded to those Nevadans through an abatement granted to the owners of residential rental dwellings who charge rent that does not exceed affordable housing standards for low-income

housing. The Legislature therefore directs a partial abatement of taxes for such owners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, if the amount of rent collected from each of the tenants of a residential dwelling does not exceed the fair market rent for the county in which the dwelling is located, as most recently published by the United States Department of Housing and Urban Development, the owner of the dwelling is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to:

(a) Any hotels, motels or other forms of transient lodging;

(b) Any property for which no assessed valuation was separately established for the immediately preceding fiscal year; and

(c) Any property for which the provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section.

~~[5. For the purposes of this section:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 19. NRS 361.4725 is hereby amended to read as follows:

361.4725 1. ~~[Notwithstanding]~~ *Except as otherwise provided in this section and notwithstanding* the provisions of NRS 361.4722, 361.4723 and 361.4724, if the taxable value of any parcel or other taxable unit of property:

(a) Decreases by 15 percent or more from its taxable value on:

(1) July 1, 2003; or

(2) July 1 of the second year immediately preceding the lien date for the current year,

➥ whichever is later; and

(b) For any fiscal year beginning on or after July 1, 2005, increases by 15 percent or more from its taxable value for the immediately preceding fiscal year,

➥ the amount of any ad valorem taxes levied in a county which, if not for the provisions of NRS 361.4722, 361.4723 and 361.4724, would otherwise have been collected for the property for that fiscal year as a result of that increase in taxable value, excluding any amount attributable to any increase in the taxable value of the property above the taxable value of the property on the most recent date determined pursuant to paragraph (a), must be levied on the property and carried forward each fiscal year, without any penalty or interest, in such a manner that one-third of that amount may be collected during that fiscal year and each of the succeeding 2 fiscal years.

2. *If the total amount otherwise required to be collected during a fiscal year and each of the succeeding 2 fiscal years pursuant to subsection 1 for a parcel or other taxable unit of property is less than or equal to $100, the entire amount may be levied on the property and collected during that initial fiscal year.*

3. The Nevada Tax Commission may exempt from the requirements of this section the levy of any taxes in an amount which is less than the cost of collecting those taxes.

4. The amount of any taxes ~~[which are carried forward and]~~ levied on any property pursuant to this section must be added to the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for a fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

~~[3.]~~ *5.* The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

~~[4. For the purposes of this section:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 20. NRS 361.473 is hereby amended to read as follows:

361.473 *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733:*

1. On or before August 1 of each fiscal year, the tax receiver of each county shall determine for each parcel or other taxable unit of property located in that county, other than any property to which subsection 2 or NRS 361.4731 applies, for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year, the amount which equals the lesser of:

(a) The amount of the partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(b) The product of the assessed value of the property for the current fiscal year and the difference between:

(1) The combined overlapping tax rate applicable to the property for the current fiscal year; and

(2) The combined overlapping tax rate applicable to the property for the immediately preceding fiscal year.

2. On or before August 1 of each fiscal year, the Department shall determine for each parcel or other taxable unit of property which is valued pursuant to NRS 361.320 or 361.323, other than any property to which NRS 361.4731 applies, and for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724 and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year, the amount which equals the lesser of:

(a) The amount of the partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(b) The product of the assessed value of the property for the current fiscal year and the difference between:

(1) The combined overlapping tax rate applicable to the property for the current fiscal year; and

(2) The combined overlapping tax rate applicable to the property for the immediately preceding fiscal year.

3. That portion of the amount of any reduction in the ad valorem taxes levied on any parcel or other taxable unit of property to which subsection 1

or 2 applies for a fiscal year as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is determined pursuant to subsection 1 or 2 must be deducted from the amount of ad valorem taxes that each taxing entity which has increased its rate of ad valorem taxes applicable to the property from the rate for the immediately preceding fiscal year, would otherwise be entitled to receive for the current fiscal year in the same proportion as that increase in its ad valorem tax rate bears to the total increase in the combined overlapping tax rate applicable to the property for the current fiscal year.

Sec. 21. NRS 361.4731 is hereby amended to read as follows:

361.4731 *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733:*

1. On or before August 1 of each fiscal year, the tax receiver of each county in which is located a redevelopment area for which there is any incremental assessed value shall determine for each parcel or other taxable unit of property in that redevelopment area, other than any property to which subsection 2 applies, for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year:

(a) The amount which equals the lesser of:

(1) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(2) The product of the parcel-proportionate share of the base value for that property for the current fiscal year and the greater of:

(I) Zero; or

(II) The rate that results when the rate obtained by adding the combined overlapping tax rate for that property for the immediately preceding fiscal year to a percentage of that rate which is equal to the abatement percentage applicable to the property for the current fiscal year, is subtracted from the combined overlapping tax rate for that property for the current fiscal year; and

(b) The amount which equals the difference between:

(1) The amount determined pursuant to paragraph (a); and

(2) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year.

2. On or before August 1 of each fiscal year, the Department shall determine for each parcel or other taxable unit of property which is valued pursuant to NRS 361.320 or 361.323 and apportioned to a redevelopment area for which there is any incremental assessed value, and for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax

rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year:

(a) The amount which equals the lesser of:

(1) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(2) The product of the parcel-proportionate share of the base value for that property for the current fiscal year and the greater of:

(I) Zero; or

(II) The rate that results when the rate obtained by adding the combined overlapping tax rate for that property for the immediately preceding fiscal year to a percentage of that rate which is equal to the abatement percentage applicable to the property for the current fiscal year, is subtracted from the combined overlapping tax rate for that property for the current fiscal year; and

(b) The amount which equals the difference between:

(1) The amount determined pursuant to paragraph (a); and

(2) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year.

3. That portion of the amount of any reduction in the ad valorem taxes levied on any parcel or other taxable unit of property to which subsection 1 or 2 applies for a fiscal year as a result of the application of NRS 361.4722, 361.4723 or 361.4724 which is determined pursuant to:

(a) Paragraph (a) of subsection 1 or paragraph (a) of subsection 2 for each such parcel or other taxable unit of property for which the combined overlapping tax rate for the current fiscal year has increased from the combined overlapping tax rate for the immediately preceding fiscal year by a percentage that exceeds the abatement percentage for that property, must be deducted from the amount of ad valorem taxes that each redevelopment taxing entity which has increased its rate of ad valorem taxes applicable to the property from the rate for the immediately preceding fiscal year, would otherwise be entitled to receive for the current fiscal year from the ad valorem taxes levied on the base-year assessed value for that property in the same proportion as that increase in its ad valorem tax rate bears to the total increase in the combined overlapping tax rate applicable to the property for the current fiscal year; and

(b) Paragraph (b) of subsection 1 or paragraph (b) of subsection 2 must be deducted from the amount of ad valorem taxes the redevelopment agency and each redevelopment taxing entity would otherwise be entitled to receive pursuant to paragraphs (b), (c) and (d) of subsection 1 of NRS 279.676 for the current fiscal year in the same proportion as each of those entities would otherwise share in the total amount distributed pursuant to those paragraphs.

Sec. 22. NRS 361.4732 is hereby amended to read as follows:

361.4732 ~~[Notwithstanding]~~ *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733 and notwithstanding* any other provision of NRS 361.471 to 361.4735, inclusive, to the contrary, after a parcel or other taxable unit of real property is annexed to a taxing entity:

1. The amount otherwise required to be determined pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724 with respect to that property for the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the amount of ad valorem taxes which would have been levied on the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier, based upon the tax rates that would have applied to the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier and without regard to any exemptions from taxation that applied to the property for the immediately preceding fiscal year but do not apply to the property for the current fiscal year; and

2. For the purposes of any other calculations required pursuant to the provisions of NRS 361.471 to 361.4735, inclusive, the combined overlapping tax rate applicable to that property for the fiscal year immediately preceding the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the combined overlapping tax rate that would have applied to the property for that year if the annexation had occurred 1 year earlier.

Sec. 23. NRS 361.4733 is hereby amended to read as follows:

361.4733 1. The Committee on Local Government Finance ~~[may]~~ *shall* adopt:

(a) *Such regulations as it determines to be appropriate to provide for the allocation among the appropriate taxing entities of the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, in accordance with the principles that:*

(1) Any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is caused by an increase in the rate of taxes imposed by one or more taxing entities should be allocated to the taxing entities that would have received the benefit of that increase in proportion to the relative amount of benefit that otherwise would have been received from that increase;

(2) Any increase in the rate of ad valorem taxes imposed by a taxing entity should not affect the amount of ad valorem taxes received by other taxing entities, except for redevelopment agencies and tax increment areas whose property tax receipts depend on the tax rate of the taxing entity that

increases its rate of taxes and whose territory is included, in whole or in part, in the territory of the taxing entity that increases its rate of taxes; and

(3) A taxing entity that does not increase its rate of ad valorem taxes should not be allocated any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, except for any reduction caused by an increase in the assessed value of that parcel or other taxable unit of real property; and

(b) Subject to the principles set forth in paragraph (a):

(1) Such regulations as it determines to be appropriate for the administration and interpretation of the provisions of NRS 361.473, 361.4731 and 361.4732; and

~~[(b)]~~ *(2)* Regulations which provide, in a manner that is consistent with the provisions of NRS 361.473, 361.4731 and 361.4732, methodologies for allocating among the appropriate taxing entities the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 if the property is included in or excluded from the boundaries of a redevelopment area, tax increment area or taxing entity after June 14, 2005.

2. Any regulations adopted by the Committee on Local Government Finance pursuant to this section must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

Sec. 24. NRS 361.4733 is hereby amended to read as follows:

361.4733 1. The Committee on Local Government Finance ~~[may]~~ *shall* adopt:

(a) *Such regulations as it determines to be appropriate to provide for the allocation among the appropriate taxing entities of the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, in accordance with the principles that:*

(1) Any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is caused by an increase in the rate of taxes imposed by one or more taxing entities should be allocated to the taxing entities that would have received the benefit of that increase in proportion to the relative amount of benefit that otherwise would have been received from that increase;

(2) Any increase in the rate of ad valorem taxes imposed by a taxing entity should not affect the amount of ad valorem taxes received by other taxing entities, except for redevelopment agencies and tax increment areas whose property tax receipts depend on the tax rate of the taxing entity that increases its rate of taxes and whose territory is included, in whole or in part, in the territory of the taxing entity that increases its rate of taxes; and

(3) A taxing entity that does not increase its rate of ad valorem taxes should not be allocated any reduction in the ad valorem taxes levied on a

parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, except for any reduction caused by an increase in the assessed value of that parcel or other taxable unit of real property; and

(b) Subject to the principles set forth in paragraph (a):

(1) Such regulations as it determines to be appropriate for the administration and interpretation of the provisions of NRS ~~[361.473, 361.4731 and]~~ 361.4732; and

~~[(b)]~~ *(2)* Regulations which provide ~~[, in a manner that is consistent with the provisions of NRS 361.473, 361.4731 and 361.4732,]~~ methodologies for allocating among the appropriate taxing entities the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 if the property is included in or excluded from the boundaries of a redevelopment area, tax increment area or taxing entity after June 14, 2005.

2. Any regulations adopted by the Committee on Local Government Finance pursuant to this section must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

Sec. 25. NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722, 361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the tax receiver of the county in which the property is located. *The petition must be submitted on or before January 15 of the fiscal year for which the determination is effective.* The tax receiver shall, after consulting with the county assessor of that county regarding the determination and within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

(b) Is valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the Department. The Department shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

2. A taxpayer who is aggrieved by a decision rendered by a tax receiver or the Department pursuant to subsection 1 may, within 30 days after receiving notice of that decision, appeal the decision to the Nevada Tax Commission.

3. A taxpayer who is aggrieved by a determination of the Nevada Tax Commission rendered on an appeal made pursuant to subsection 2 is entitled to a judicial review of that determination.

Sec. 26. NRS 361.4835 is hereby amended to read as follows:

361.4835 1. If the county treasurer or the county assessor finds that a person's failure to make a timely return or payment of tax that is assessed by the county treasurer or county assessor and that is imposed pursuant to

chapter 361 of NRS, except NRS 361.320, is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the county treasurer or the county assessor may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must *pay the amount of the tax due and, within 30 days after the date the payment is made,* file a statement setting forth the facts upon which he bases his claim with the county treasurer or the county assessor.

3. The county treasurer or the county assessor shall disclose, upon the request of any person:

(a) The name of the person; and

(b) The amount of the relief.

4. If the relief sought by the taxpayer is denied, he may appeal from the denial to the Nevada Tax Commission.

5. The county treasurer or the county assessor may defer the decision to the Department.

Sec. 27. Section 57 of chapter 496, Statutes of Nevada 2005, at page 2680, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, ~~[2007.]~~ *2009.*

5. Section 43 of this act expires by limitation on June 30, ~~[2007.]~~ *2009.*

Sec. 28. ~~[1.]~~ NRS 361.4711, 361.4713, 361.4714, 361.4716, 361.4717, 361.4718, 361.4719, 361.472, 361.473 and 361.4731 are hereby repealed.

~~[2. Section 23 of chapter 496, Statutes of Nevada 2005, at page 2660, is hereby repealed.]~~

Sec. 29. 1. The Legislature hereby approves, confirms and ratifies the regulations adopted by the Committee on Local Government Finance pursuant to NRS 361.4733 before the effective date of this section.

2. The Committee on Local Government Finance shall adopt the regulations required pursuant to the amendatory provisions of section 23 of this act not later than December 31, 2007.

Sec. 30. 1. This section and ~~[section 27, subsection 2 of section 28 and section 29]~~ *sections 27 and 29* of this act become effective upon passage and approval.

2. Sections 1 to 13, inclusive, 15, 19 to 23, inclusive, 25 and 26 of this act become effective on July 1, 2007.

3. Sections 15 and 23 of this act expire by limitation on December 31, 2007.

4. Sections 14, 16, 17, 18 ~~[and 24 and subsection 1 of section]~~ *, 24 and* 28 of this act become effective on January 1, 2008.

LEADLINES OF REPEALED SECTIONS ~~[OF NRS AND TEXT OF REPEALED SECTION OF STATUTES OF NEVADA]~~

361.4711 "Abatement percentage" defined.

361.4713 "Base-year assessed value" defined.

361.4714 "Base-year assessed value percentage" defined.

361.4716 "Incremental assessed value" defined.

361.4717 "Parcel-proportionate share of the base value" defined.

361.4718 "Redevelopment agency" defined.

361.4719 "Redevelopment area" defined.

361.472 "Redevelopment taxing entity" defined.

361.473 Allocation of certain portions of reduction in revenue resulting from partial abatements applicable to property for which tax rate increases: Generally.

361.4731 Allocation of certain portions of reduction in revenue resulting from partial abatements applicable to property for which tax rate increases: Property in or apportioned to redevelopment area.

~~[Section 23 of chapter 496, Statutes of Nevada 2005:~~

~~Sec. 23. NRS 361.530 is hereby amended to read as follows:~~

~~361.530 [1. Except as otherwise provided in this section, on] *On* all money collected from personal property tax by the several county assessors and county treasurers, there must be reserved and paid into the county treasury, for the benefit of the general fund of their respective counties, by the county assessor or county treasurer, a percentage commission of [8] *6* percent on the gross amount of collections from personal property tax.~~

~~[2. One-quarter of the commission reserved pursuant to subsection 1 must be accounted for separately in the account for the acquisition and improvement of technology in the office of the county assessor created pursuant to NRS 250.085.]~~

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

The following amendment was proposed by Senator Coffin:

Amendment No. 997.

"SUMMARY—Makes various changes regarding the imposition and administration of property taxes. (BDR 32-469)"

"AN ACT relating to the taxation of property; revising the provisions governing certain exemptions from taxes and appeals by taxpayers; revising certain requirements for the assessment of common-interest communities; revising the provisions governing the calculation of certain partial abatements of taxes and the collection of taxes following certain fluctuations in taxable value; requiring the Committee on Local Government Finance to

adopt regulations for the allocation of certain reductions in revenue resulting from the partial abatement of taxes; providing limitations upon certain requests for the waiver of interest and penalties imposed for the late payment of taxes; repealing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires each county assessor to provide certain information regarding property taxes on the Internet. (NRS 361.0445) Section 1 of this bill authorizes a county assessor to disseminate, by additional means, certain information to the public concerning the taxation of property.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) Section 2 of this bill simplifies the administration of this exemption by removing any calculation of the value of such a qualified system from the determination of the assessed value of a building to which the exemption applies.

Existing law provides partial exemptions from property taxes for the property of surviving spouses, blind persons, veterans, disabled veterans and certain veterans' organizations, and provides for annual increases in those exemptions beginning with the 2006-2007 Fiscal Year based upon the increase in the Consumer Price Index from July 2004. (NRS 361.080, 361.085, 361.090, 361.091, 361.095) Sections ~~[3-7]~~ *3 and 4-7* of this bill provide for the commencement of those annual increases during the 2005-2006 Fiscal Year based upon the increase in the Consumer Price Index from July 2003.

Section 7.5 of this bill provides an exemption from property taxes for certain property held by the Archaeological Conservancy.

Section 8 of this bill repeals a $5,000 limitation on the amount of an exemption from property taxes applicable to the funds, furniture, paraphernalia and regalia of certain lodges and other charitable organizations. (NRS 361.135)

Existing law requires the filing of claims for personal tax exemptions on real property, and the initial claim of an organization for a tax exemption on real property, to be filed on or before June 15. (NRS 361.155) Section 9 of this bill extends that deadline to July 5 for real property acquired after June 15 and before July 1. *Section 9 also provides for the filing of a late claim of exemption with, and for the appeal of the denial of a claim of exemption to, the county board of equalization.*

Existing law provides for the assessment of property taxes for a common-interest community on the community units and not on the common elements of the community. (NRS 361.233) Section 10 of this bill specifies the methodology for determining the taxable value of a parcel that includes

such a community unit and clarifies the definitions of "community unit" and "common elements" for this purpose.

Existing law allows taxpayers to appeal the amount of certain assessments of their property to the State Board of Equalization. (NRS 361.360) Section 11 of this bill limits the effect of a change in assessment resulting from such an appeal to the fiscal year for which the assessment was made.

Under existing law, a property owner may protest the payment of taxes claimed to be in excess of the amount justly due and, if the State Board of Equalization denies relief, commence a legal proceeding in any county of this State to recover any overpayment. (NRS 361.420) Existing law authorizes a property owner to consolidate similar suits regarding property in more than one county into a single legal action. (NRS 361.435) Sections 12 and 13 of this bill clarify that these proceedings consist of a judicial review of the decision of the State Board of Equalization and limit the locations where these proceedings may be brought.

Existing law provides for a generally applicable partial abatement of the property taxes levied on property for which an assessed valuation has previously been established or on a remainder parcel of property, based upon the average change in the assessed valuation of property in the county over the last 10 years or twice the increase in the Consumer Price Index for the last year, whichever is greater. (NRS 361.4722) Section 15 of this bill ensures that this partial abatement cannot be less than zero nor greater than 8 percent.

Existing law exempts from certain partial abatements of property taxes certain increases in the taxable value of property following large fluctuations in that value and requires the collection of the resulting taxes due over a period of 3 years. (NRS 361.4725) Section 19 of this bill allows the collection of the amount due in a single year if that amount does not exceed $100 and authorizes the Nevada Tax Commission to exempt from collection any amount which is less than the cost of collection.

Existing law provides formulas for the allocation of reductions in revenue resulting from certain partial abatements of property taxes applicable to property for which the tax rate increases and authorizes the Committee on Local Government Finance to adopt regulations for the administration and interpretation of those formulas. (NRS 361.473, 361.4731, 361.4733) Section 23 of this bill requires the Committee to adopt such regulations as it determines to be appropriate, in accordance with certain specified principles, for the allocation of reductions in revenue resulting from those partial abatements of property taxes. Section 29 of this bill ratifies the regulations previously adopted by the Committee and requires the adoption of additional regulations not later than December 31, 2007. Section 28 of this bill repeals the existing formulas after the adoption of the additional regulations.

Existing law allows a taxpayer to petition the tax receiver for the review of a determination regarding the applicability of certain partial abatements from property taxes. (NRS 361.4734) Section 25 of this bill requires the

submission of the petition on or before January 15 of the fiscal year for which the determination is effective.

Existing law authorizes a county treasurer or county assessor to waive all or part of the interest or penalty due from a person who fails to make a timely payment of property taxes as a result of circumstances beyond his control and who files a statement setting forth the facts of his claim. (NRS 361.4835) Section 26 of this bill requires a person seeking such relief to pay the amount of the taxes due and file the statement within 30 days after that payment is made.

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) Sections 27 and 28 of this bill provide for the continuation of this funding by repealing its prospective expiration on July 1, 2007.

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

Section 1. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A county assessor may, by regular mail, electronic means or any other means the assessor deems appropriate, disseminate information to the public concerning the taxation of property, including, without limitation, information relating to the valuation and assessment of property, exemptions from taxation, the declaration of a homestead and programs for the assistance of senior citizens.

2. Any information provided pursuant to subsection 1 must, to the extent practicable, be in a form that is easily understood and readily accessible to the public.

Sec. 2. NRS 361.079 is hereby amended to read as follows:

361.079 1. Except as otherwise provided in subsection 2, ~~[for any assessment made on or after July 1, 1983, any value added by]~~ *the value of* a qualified system must ~~[be excluded from]~~ *not be included in* the assessed value of ~~[the building regardless of the date the system was installed.~~

~~2. Value]~~ *a building.*

2. Any value added by a qualified system must ~~[not be excluded from]~~ *be included in* the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption *pursuant to NRS 361.045 to 361.159, inclusive,* from the taxes imposed by this chapter.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

(a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

➥ which conforms to standards established by regulation of the Department.

Sec. 3. NRS 361.080 is hereby amended to read as follows:

361.080 1. The property of surviving spouses, not to exceed the amount of $1,000 assessed valuation, is exempt from taxation, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State to the same family.

2. For the purpose of this section, property in which the surviving spouse has any interest shall be deemed the property of the surviving spouse.

3. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of this State and that the exemption has been claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

6. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 3.5. *NRS 361.082 is hereby amended to read as follows:*

361.082 1. That portion of real property and tangible personal property which is used for housing and related facilities for persons with low incomes is exempt from taxation if the portion of property qualifies as a low-income unit and is part of a qualified low-income housing project that is funded in part by federal money appropriated pursuant to 42 U.S.C. §§ 12701 et seq. for the year in which the exemption applies.

2. The portion of a qualified low-income housing project that is entitled to the property tax exemption pursuant to subsection 1 must be determined by dividing the total assessed value of the housing project and the land upon

which it is situated into the assessed value of the low-income units and related facilities that are occupied by or used exclusively for persons with low incomes.

3. The Nevada Tax Commission shall, by regulation, prescribe a form for an application for the exemption described in subsection 1. After an original application is filed, the county assessor of the county in which the housing project is located may mail a form for the renewal of the exemption to the owner of the housing project each year following a year in which the exemption was allowed for that project.

4. A renewal form returned to a county assessor must indicate the total number of units in the housing project and the number of units used for housing and related facilities for persons with low incomes. If the owner of a housing project fails to provide a properly completed renewal form to the county assessor of the county in which the project is located by the date required in NRS 361.155, *except as otherwise provided in subsection 6 of that section,* or fails to qualify for the exemption described in subsection 1, he is not entitled to the exemption in the following fiscal year.

5. As used in this section, the terms "low-income unit" and "qualified low-income housing project" have the meanings ascribed to them in 26 U.S.C. § 42.

Sec. 4. NRS 361.085 is hereby amended to read as follows:

361.085 1. The property of all blind persons, not to exceed the amount of $3,000 of assessed valuation, is exempt from taxation, including community property to the extent only of the blind person's interest therein, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State on account of the same blind person.

2. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of the State of Nevada who meets all the other requirements for the exemption and that the exemption is not claimed in any other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

3. Upon first claiming the exemption in a county *,* the claimant shall furnish to the assessor a certificate of a licensed physician setting forth that he has examined the claimant and has found him to be a blind person.

4. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

5. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the

amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

6. As used in this section, "blind person" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20°.

Sec. 5. NRS 361.090 is hereby amended to read as follows:

361.090 1. The property, to the extent of $2,000 assessed valuation, of any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 continuous days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(c) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the government of the United States, regardless of the number of days served on active duty,

➥ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first $2,000 assessed valuation of property in which an applicant has any interest shall be deemed the property of the applicant.

3. The exemption may be allowed only to a claimant who files an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be filed at any time by a person claiming exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county in this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Persons in actual military service are exempt during the period of such service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to such persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his behalf during the period of such service by any person having knowledge of the facts.

6. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the county assessor shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

7. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

8. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 6. NRS 361.091 is hereby amended to read as follows:

361.091 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his surviving spouse, is entitled to a disabled veteran's exemption.

2. The amount of exemption is based on the total percentage of permanent service-connected disability. The maximum allowable exemption for total permanent disability is the first $20,000 assessed valuation. A person with a permanent service-connected disability of:

(a) Eighty to 99 percent, inclusive, is entitled to an exemption of $15,000 assessed value.

(b) Sixty to 79 percent, inclusive, is entitled to an exemption of $10,000 assessed value.

➥ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

3. The exemption may be allowed only to a claimant who has filed an affidavit with his claim for exemption on real property pursuant to

NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that he meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require him to produce an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his permanent service-connected disability;

(b) A certificate of satisfactory service which indicates the total percentage of his permanent service-connected disability; or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he has incurred a permanent service-connected disability and which indicates the total percentage of that disability, together with a certificate of honorable discharge or satisfactory service.

6. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the disabled veteran for the 5 years preceding his death;

(b) The disabled veteran was eligible for the exemption at the time of his death or would have been eligible if he had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

➥ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 4 and 5. After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

7. If a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected

disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent.

8. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

9. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

10. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amounts in subsection 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 7. NRS 361.095 is hereby amended to read as follows:

361.095 1. The funds, furniture, paraphernalia and regalia owned and used exclusively by any post of any national organization of ex-servicemen or ex-servicewomen for the legitimate purposes and customary objects of such posts are exempt from taxation, but such an exemption must not exceed the sum of $10,000 assessed valuation to any one post or organization thereof.

2. The buildings, with their fixtures and the lots of ground on which they stand, used for its legitimate purposes and necessary thereto, of any such organization are exempt from taxation, but when any such property is used for purposes other than those of such an organization, and a rent or other valuable consideration is received for its use, the property so used must be taxed.

3. Where any structure or parcel of land is used partly for the purposes of such an organization and partly for rental purposes, the area used for rental purposes must be assessed separately and that portion only may be taxed.

4. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 7.5. NRS 361.111 is hereby amended to read as follows:

361.111 1. Except as otherwise provided in subsections 2 and 3, all real property and improvements thereon acquired by the *Archaeological Conservancy,* Nature Conservancy, American Land Conservancy or Nevada Land Conservancy and held for ultimate acquisition by the State or a local governmental unit are exempt from taxation if:

(a) The State or a local governmental unit has agreed, in writing, that acquisition of the property will be given serious consideration; and

(b) For property for which the State has given the statement required by paragraph (a), the governing body of the county in which the property is located has approved the potential acquisition of the property by the State.

2. When the *Archaeological Conservancy,* Nature Conservancy, American Land Conservancy or Nevada Land Conservancy transfers property it has held for purposes of conservation to any person, partnership, association, corporation or entity other than the State or a local governmental unit, the property must be assessed at the rate set for first-class pasture by the Nevada Tax Commission for each year it was exempt pursuant to subsection 1 and the taxes must be collected as other taxes under this chapter are collected.

3. When the *Archaeological Conservancy,* Nature Conservancy, American Land Conservancy or Nevada Land Conservancy transfers property it has held for purposes other than conservation to any person, partnership, association, corporation or entity other than the State or a local governmental unit, the tax imposed by this chapter must be assessed against the property for each year it was exempt pursuant to subsection 1 and collected in the manner provided in this chapter.

4. The Nevada Tax Commission shall adopt regulations specifying the criteria for determining when property has been held by the *Archaeological Conservancy,* Nature Conservancy, American Land Conservancy or Nevada Land Conservancy for purposes of conservation.

Sec. 8. NRS 361.135 is hereby amended to read as follows:

361.135 1. The funds, furniture, paraphernalia and regalia owned by any lodge of the Benevolent Protective Order of Elks, Fraternal Order of Eagles, Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias or Knights of Columbus, or by any similar charitable organization, or by the Lahontan Audubon Society, the National Audubon Society, Inc., of New York, the Defenders of Wildlife of the District of Columbia or any similar benevolent or charitable society, so long as ~~[the same shall be]~~ *they are* used for the legitimate purposes of such lodge or society or for such charitable or benevolent purposes, ~~[shall be]~~ *are* exempt from taxation . ~~[, but such exemption shall in no case exceed the sum of $5,000 assessed valuation to any one lodge, society or organization.]~~

2. The real estate and fixtures of any such organization or society ~~[shall be]~~ *are* exempt from taxation, but when any such property is used for purposes other than those of such organization or society, and a rent or other valuable consideration is received for its use, the property so used ~~[shall]~~ *must* be taxed.

3. Where any structure or parcel of land is used partly for the purposes of such organization or society and partly for rental purposes, the area used for rental purposes ~~[shall]~~ *must* be assessed separately and that portion only ~~[shall]~~ *may* be taxed.

Sec. 9. NRS 361.155 is hereby amended to read as follows:

361.155 1. ~~[All]~~ *Except as otherwise provided in this ~~[subsection, all]~~ section:*

(a) All claims for personal tax exemptions on real property, the initial claim of an organization for a tax exemption on real property and the designation of any amount to be credited to the Gift Account for Veterans' Homes pursuant to NRS 361.0905 must be filed on or before June 15.

(b) An initial claim for a tax exemption on real property acquired after June 15 and before July 1 must be filed on or before July 5.

2. All exemptions provided for pursuant to this chapter apply on a fiscal year basis and any exemption granted pursuant to this chapter must not be in an amount which gives the taxpayer a total exemption greater than that to which he is entitled during any fiscal year.

~~[2.]~~ *3.* ~~[Each]~~ *Except as otherwise provided in this section, each* claim for an exemption provided for pursuant to this chapter must be filed with the county assessor of:

(a) The county in which the claimant resides for personal tax exemptions; or

(b) Each county in which property is located for the tax exemption of an organization.

~~[3.]~~ *4.* After the initial claim for an exemption pursuant to NRS 361.088 or 361.098 to 361.150, inclusive, an organization is not required to file annual claims if the property remains exempt. If any portion of the property loses its exemption pursuant to NRS 361.157 or for any other reason becomes taxable, the organization must notify the county assessor.

~~[4.]~~ *5.* If an exemption is granted or renewed in error because of an incorrect claim or failure of an organization to give the notice required by subsection ~~[3,]~~ *4,* the assessor shall assess the taxable portion of the property retroactively pursuant to NRS 361.769 and a penalty of 10 percent of the tax due for the current year and any prior years may be added.

6. If a claim for a tax exemption on real property and any required affidavit or other documentation in support of the claim is not filed within the time required by subsection 1, or if a claim for a tax exemption is denied by the county assessor, the person claiming the exemption may, on or before January 15 of the fiscal year for which the claim of exemption is made, file the claim and any required documentation in support of the claim with the county board of equalization of the county in which the claim is required to be filed pursuant to subsection 3. The county board of equalization shall review the claim of exemption and may grant or deny the claim for that fiscal year, as it determines to be appropriate. The State Board of Equalization shall establish procedures for:

(a) The review of a claim of exemption by a county board of equalization pursuant to this subsection; and

(b) The appeal to the State Board of Equalization of the denial of a claim of exemption by a county board of equalization pursuant to this subsection.

Sec. 10. NRS 361.233 is hereby amended to read as follows:

361.233 1. Notwithstanding any other provision of law:

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:

(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

(b) ~~[Each community unit must be assessed separately for the purposes of ad valorem taxes and special assessments.~~

~~(c) Any lien created by the levy of an ad valorem tax or special assessment upon a community unit applies only to the community unit assessed and does not apply to any other portion of the common interest community.]~~ *The taxable value of each parcel:*

(1) Composed solely of a community unit must consist of:

(I) The taxable value of that community unit; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community; or

(2) Composed of a community unit and any portion of the common elements of the common-interest community must consist of:

(I) The taxable value of that community unit only; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community.

2. *The Nevada Tax Commission shall adopt such regulations as it determines to be appropriate to ensure that this section is carried out in a uniform and equal manner that does not result in the double taxation of any common elements of a common-interest community.*

3. For the purposes of this section:

(a) "Ad valorem tax" means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) "Common elements" means ~~[all real property within]~~ *the physical portion of* a common-interest community ~~[other than the community units,]~~ *, including, without limitation, any landscaping, swimming pools, fitness centers, community centers, maintenance and service areas, parking areas, hallways, elevators and mechanical rooms,* which is ~~[owned:]~~ *:*

(1) *Intended for the general benefit of and potential use by all the owners of the community units and their invitees; and*

(2) Owned:

(I) By the community association;

~~[(2)]~~ *(II)* By any person on behalf or for the benefit of the owners of the community units; or

~~[(3)]~~ *(III)* Jointly by the owners of the community units.

(c) "Common-interest community" means real property with respect to which a person, by virtue of his ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, a condominium project governed by the provisions of chapter 117 of NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) "Community association" means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community ~~[designated]~~ *, other than the common elements, which is:*

(1) Designated for separate ownership or occupancy ~~[.]~~ *; and*

(2) Intended for:

(I) Residential use by the owner of that unit and his invitees; or

(II) Commercial use by the owner of that unit for the generation of revenue from any persons other than the owners of community units in that common-interest community and their invitees.

(f) "Special assessment" means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

Sec. 11. NRS 361.360 is hereby amended to read as follows:

361.360 1. Any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 and present to the State Board of Equalization the matters complained of at one of its sessions. If March 10 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. All such appeals must be presented upon the same facts and evidence as were submitted to the county board of equalization in the first instance, unless there is discovered new evidence pertaining to the matter which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization. The new evidence must be submitted in writing to the State Board of Equalization and served upon the county assessor not less than 7 days before the hearing.

3. Any taxpayer whose real or personal property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 may likewise protest to the State Board of Equalization. Every such appeal must be filed on or before May 15. If May 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. A meeting must be held before May 31 to hear those protests that in the opinion of the State Board of Equalization may have a substantial effect on tax

revenues. One or more meetings may be held at any time and place in the State before October 1 to hear all other protests.

4. The State Board of Equalization may not reduce the assessment of the county assessor if:

(a) The appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include in the list required of him pursuant to NRS 361.265 or *if the taxpayer* has refused or, without good cause, has neglected to provide the list to the county assessor; or

(b) The taxpayer has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination authorized by NRS 361.260.

5. *Any change made in an assessment appealed to the State Board of Equalization is effective only for the fiscal year for which the assessment was made.* The county assessor shall *review* each ~~[year review any]~~ *such* change ~~[made in an assessment for the previous fiscal year]~~ and maintain or remove the change as circumstances warrant ~~[.]~~ *for the next fiscal year.*

6. If the State Board of Equalization determines that the record of a case on appeal from the county board of equalization is inadequate because of an act or omission of the county assessor, the district attorney or the county board of equalization, the State Board of Equalization may remand the case to the county board of equalization with directions to develop an adequate record within 30 days after the remand. The directions must indicate specifically the inadequacies to be remedied. If the State Board of Equalization determines that the record returned from the county board of equalization after remand is still inadequate, the State Board of Equalization may hold a hearing anew on the appellant's complaint or it may, if necessary, contract with an appropriate person to hear the matter, develop an adequate record in the case and submit recommendations to the State Board. The cost of the contract and all costs, including attorney's fees, to the State or the appellant necessary to remedy the inadequate record on appeal are a charge against the county.

Sec. 12. NRS 361.420 is hereby amended to read as follows:

361.420 1. Any property owner whose taxes are in excess of the amount which the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The protest must be in the form of a separate, signed statement from the property owner and filed with the tax receiver at the time of the payment of the installment of taxes.

2. The property owner, having protested the payment of taxes as provided in subsection 1 and having been denied relief by the State Board of Equalization, may ~~[commence a suit]~~ *file for the judicial review of the decision of the State Board of Equalization* in any court of competent jurisdiction in the ~~[State of Nevada]~~ *county in which the taxes were paid* against the State and county in which the taxes were paid, and, in a proper case, both the Nevada Tax Commission and the Department may be joined as a defendant for a recovery of the difference between the amount of taxes paid

and the amount which the owner claims justly to be due, and the owner may complain upon any of the grounds contained in subsection 4.

3. Every action commenced under the provisions of this section must be commenced within 3 months after the date of the payment of the last installment of taxes, and if not so commenced is forever barred. If the tax complained of is paid in full and under the written protest provided for in this section, at the time of the payment of the first installment of taxes, suit for the recovery of the difference between the amount paid and the amount claimed to be justly due must be commenced within 3 months after the date of the full payment of the tax or the issuance of the decision of the State Board of Equalization denying relief, whichever occurs later, and if not so commenced is forever barred.

4. In any suit brought under the provisions of this section, the person assessed may complain or defend upon any of the following grounds:

(a) That the taxes have been paid before the suit;

(b) That the property is exempt from taxation under the provisions of the revenue or tax laws of the State, specifying in detail the claim of exemption;

(c) That the person assessed was not the owner and had no right, title or interest in the property assessed at the time of assessment;

(d) That the property is situate in and has been assessed in another county, and the taxes thereon paid;

(e) That there was fraud in the assessment or that the assessment is out of proportion to and above the taxable cash value of the property assessed;

(f) That the assessment is out of proportion to and above the valuation fixed by the Nevada Tax Commission for the year in which the taxes were levied and the property assessed; or

(g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the State is assessed.

5. In a suit based upon any one of the grounds mentioned in paragraphs (e), (f) and (g) of subsection 4, the court shall conduct the trial without a jury and confine its review to the record before the State Board of Equalization. Where procedural irregularities by the Board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.

6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.

7. In any judgment recovered by the taxpayer under this section, the court may provide for interest thereon not to exceed 6 percent per annum from and after the date of payment of the tax complained of.

Sec. 13. NRS 361.435 is hereby amended to read as follows:

361.435 Any property owner owning property of like kind in more than one county in the State and desiring to proceed with a suit under the provisions of NRS 361.420 may, where the issues in the cases are substantially the same in all or in some of the counties concerning the assessment of taxes on such property, consolidate any of the suits in one action and bring the action in any court of competent jurisdiction in ~~[Carson City,]~~ the county of this State where the property owner resides or maintains his principal place of business or a county in which any relevant proceedings were conducted by the Department.

Sec. 14. NRS 361.471 is hereby amended to read as follows:

361.471 As used in NRS 361.471 to 361.4735, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[361.4711 to 361.4721, inclusive,]~~ *361.4712, 361.4715 and 361.4721* have the meanings ascribed to them in those sections.

Sec. 15. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[~~,~~]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[.]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS 361.473 to 361.4733, inclusive, and any regulations adopted pursuant thereto, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section ~~[:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Remainder]~~ *, "remainder* parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~[(c) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 16. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal

year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[.]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[.]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section ~~[:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Remainder]~~ *, "remainder* parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property

for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~[(c) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 17. NRS 361.4723 is hereby amended to read as follows:

361.4723 The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution. The Legislature therefore directs a partial abatement of taxes for such homeowners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, the owner of a single-family residence which is the primary residence of the owner is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to any property for which:

(a) No assessed valuation was separately established for the immediately preceding fiscal year; or

(b) The provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem

taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section, including, without limitation, regulations providing a methodology for applying the partial abatement provided pursuant to subsection 1 to a parcel of real property of which only a portion qualifies as a single-family residence which is the primary residence of the owner and the remainder is used in another manner.

5. The owner of a single-family residence does not become ineligible for the partial abatement provided pursuant to subsection 1 as a result of:

(a) The operation of a home business out of a portion of that single-family residence; or

(b) The manner in which title is held by the owner if the owner occupies the residence, including, without limitation, if the owner has placed the title in a trust for purposes of estate planning.

6. For the purposes of this section:

(a) ~~["Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b)]~~ "Primary residence of the owner" means a residence which:

(1) Is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State; and

(2) Is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.

~~[(c)]~~ *(b)* "Single-family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

~~[(d) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.~~

~~(e)]~~ *(c)* "Unit of personal property" includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

➥ if classified as personal property for the purposes of this chapter.

~~[(f)]~~ *(d)* "Unit of real property" includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter.

Sec. 18. NRS 361.4724 is hereby amended to read as follows:

361.4724 The Legislature hereby finds and declares that many Nevadans who cannot afford to own their own homes would be adversely affected by large unanticipated increases in property taxes, as those tax increases are passed down to renters in the form of rent increases and therefore the benefits of a charitable exemption pursuant to subsection 8 of Section 1 of Article 10 of the Nevada Constitution should be afforded to those Nevadans through an abatement granted to the owners of residential rental dwellings who charge rent that does not exceed affordable housing standards for low-income housing. The Legislature therefore directs a partial abatement of taxes for such owners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, if the amount of rent collected from each of the tenants of a residential dwelling does not exceed the fair market rent for the county in which the dwelling is located, as most recently published by the United States Department of Housing and Urban Development, the owner of the dwelling is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to:

(a) Any hotels, motels or other forms of transient lodging;

(b) Any property for which no assessed valuation was separately established for the immediately preceding fiscal year; and

(c) Any property for which the provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to

receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section.

~~[5. For the purposes of this section:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 19. NRS 361.4725 is hereby amended to read as follows:

361.4725 1. ~~[Notwithstanding]~~ *Except as otherwise provided in this section and notwithstanding* the provisions of NRS 361.4722, 361.4723 and 361.4724, if the taxable value of any parcel or other taxable unit of property:

(a) Decreases by 15 percent or more from its taxable value on:

(1) July 1, 2003; or

(2) July 1 of the second year immediately preceding the lien date for the current year,

➥ whichever is later; and

(b) For any fiscal year beginning on or after July 1, 2005, increases by 15 percent or more from its taxable value for the immediately preceding fiscal year,

➥ the amount of any ad valorem taxes levied in a county which, if not for the provisions of NRS 361.4722, 361.4723 and 361.4724, would otherwise have been collected for the property for that fiscal year as a result of that increase in taxable value, excluding any amount attributable to any increase in the taxable value of the property above the taxable value of the property on the most recent date determined pursuant to paragraph (a), must be levied on the property and carried forward each fiscal year, without any penalty or interest, in such a manner that one-third of that amount may be collected during that fiscal year and each of the succeeding 2 fiscal years.

2. *If the total amount otherwise required to be collected during a fiscal year and each of the succeeding 2 fiscal years pursuant to subsection 1 for a parcel or other taxable unit of property is less than or equal to $100, the entire amount may be levied on the property and collected during that initial fiscal year.*

3. The Nevada Tax Commission may exempt from the requirements of this section the levy of any taxes in an amount which is less than the cost of collecting those taxes.

4. The amount of any taxes ~~[which are carried forward and]~~ levied on any property pursuant to this section must be added to the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for

a fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

~~[3.]~~ *5.* The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

~~[4. For the purposes of this section:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 20. NRS 361.473 is hereby amended to read as follows:

361.473 *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733:*

1. On or before August 1 of each fiscal year, the tax receiver of each county shall determine for each parcel or other taxable unit of property located in that county, other than any property to which subsection 2 or NRS 361.4731 applies, for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year, the amount which equals the lesser of:

(a) The amount of the partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(b) The product of the assessed value of the property for the current fiscal year and the difference between:

(1) The combined overlapping tax rate applicable to the property for the current fiscal year; and

(2) The combined overlapping tax rate applicable to the property for the immediately preceding fiscal year.

2. On or before August 1 of each fiscal year, the Department shall determine for each parcel or other taxable unit of property which is valued pursuant to NRS 361.320 or 361.323, other than any property to which NRS 361.4731 applies, and for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724 and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year, the amount which equals the lesser of:

(a) The amount of the partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(b) The product of the assessed value of the property for the current fiscal year and the difference between:

(1) The combined overlapping tax rate applicable to the property for the current fiscal year; and

(2) The combined overlapping tax rate applicable to the property for the immediately preceding fiscal year.

3. That portion of the amount of any reduction in the ad valorem taxes levied on any parcel or other taxable unit of property to which subsection 1 or 2 applies for a fiscal year as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is determined pursuant to subsection 1 or 2 must be deducted from the amount of ad valorem taxes that each taxing entity which has increased its rate of ad valorem taxes applicable to the property from the rate for the immediately preceding fiscal year, would otherwise be entitled to receive for the current fiscal year in the same proportion as that increase in its ad valorem tax rate bears to the total increase in the combined overlapping tax rate applicable to the property for the current fiscal year.

Sec. 21. NRS 361.4731 is hereby amended to read as follows:

361.4731 *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733:*

1. On or before August 1 of each fiscal year, the tax receiver of each county in which is located a redevelopment area for which there is any incremental assessed value shall determine for each parcel or other taxable unit of property in that redevelopment area, other than any property to which subsection 2 applies, for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year:

(a) The amount which equals the lesser of:

(1) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(2) The product of the parcel-proportionate share of the base value for that property for the current fiscal year and the greater of:

(I) Zero; or

(II) The rate that results when the rate obtained by adding the combined overlapping tax rate for that property for the immediately preceding fiscal year to a percentage of that rate which is equal to the abatement percentage applicable to the property for the current fiscal year, is subtracted from the combined overlapping tax rate for that property for the current fiscal year; and

(b) The amount which equals the difference between:

(1) The amount determined pursuant to paragraph (a); and

(2) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year.

2. On or before August 1 of each fiscal year, the Department shall determine for each parcel or other taxable unit of property which is valued pursuant to NRS 361.320 or 361.323 and apportioned to a redevelopment area for which there is any incremental assessed value, and for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year:

(a) The amount which equals the lesser of:

(1) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(2) The product of the parcel-proportionate share of the base value for that property for the current fiscal year and the greater of:

(I) Zero; or

(II) The rate that results when the rate obtained by adding the combined overlapping tax rate for that property for the immediately preceding fiscal year to a percentage of that rate which is equal to the abatement percentage applicable to the property for the current fiscal year, is subtracted from the combined overlapping tax rate for that property for the current fiscal year; and

(b) The amount which equals the difference between:

(1) The amount determined pursuant to paragraph (a); and

(2) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year.

3. That portion of the amount of any reduction in the ad valorem taxes levied on any parcel or other taxable unit of property to which subsection 1 or 2 applies for a fiscal year as a result of the application of NRS 361.4722, 361.4723 or 361.4724 which is determined pursuant to:

(a) Paragraph (a) of subsection 1 or paragraph (a) of subsection 2 for each such parcel or other taxable unit of property for which the combined overlapping tax rate for the current fiscal year has increased from the combined overlapping tax rate for the immediately preceding fiscal year by a percentage that exceeds the abatement percentage for that property, must be deducted from the amount of ad valorem taxes that each redevelopment taxing entity which has increased its rate of ad valorem taxes applicable to the property from the rate for the immediately preceding fiscal year, would otherwise be entitled to receive for the current fiscal year from the ad valorem taxes levied on the base-year assessed value for that property in the same proportion as that increase in its ad valorem tax rate bears to the

total increase in the combined overlapping tax rate applicable to the property for the current fiscal year; and

(b) Paragraph (b) of subsection 1 or paragraph (b) of subsection 2 must be deducted from the amount of ad valorem taxes the redevelopment agency and each redevelopment taxing entity would otherwise be entitled to receive pursuant to paragraphs (b), (c) and (d) of subsection 1 of NRS 279.676 for the current fiscal year in the same proportion as each of those entities would otherwise share in the total amount distributed pursuant to those paragraphs.

Sec. 22. NRS 361.4732 is hereby amended to read as follows:

361.4732 ~~[Notwithstanding]~~ *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733 and notwithstanding* any other provision of NRS 361.471 to 361.4735, inclusive, to the contrary, after a parcel or other taxable unit of real property is annexed to a taxing entity:

1. The amount otherwise required to be determined pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724 with respect to that property for the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the amount of ad valorem taxes which would have been levied on the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier, based upon the tax rates that would have applied to the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier and without regard to any exemptions from taxation that applied to the property for the immediately preceding fiscal year but do not apply to the property for the current fiscal year; and

2. For the purposes of any other calculations required pursuant to the provisions of NRS 361.471 to 361.4735, inclusive, the combined overlapping tax rate applicable to that property for the fiscal year immediately preceding the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the combined overlapping tax rate that would have applied to the property for that year if the annexation had occurred 1 year earlier.

Sec. 23. NRS 361.4733 is hereby amended to read as follows:

361.4733 1. The Committee on Local Government Finance ~~[may]~~ *shall* adopt:

(a) *Such regulations as it determines to be appropriate to provide for the allocation among the appropriate taxing entities of the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, in accordance with the principles that:*

(1) Any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722,

361.4723 and 361.4724 which is caused by an increase in the rate of taxes imposed by one or more taxing entities should be allocated to the taxing entities that would have received the benefit of that increase in proportion to the relative amount of benefit that otherwise would have been received from that increase;

(2) Any increase in the rate of ad valorem taxes imposed by a taxing entity should not affect the amount of ad valorem taxes received by other taxing entities, except for redevelopment agencies and tax increment areas whose property tax receipts depend on the tax rate of the taxing entity that increases its rate of taxes and whose territory is included, in whole or in part, in the territory of the taxing entity that increases its rate of taxes; and

(3) A taxing entity that does not increase its rate of ad valorem taxes should not be allocated any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, except for any reduction caused by an increase in the assessed value of that parcel or other taxable unit of real property; and

(b) Subject to the principles set forth in paragraph (a):

(1) Such regulations as it determines to be appropriate for the administration and interpretation of the provisions of NRS 361.473, 361.4731 and 361.4732; and

~~[(b)]~~ *(2)* Regulations which provide, in a manner that is consistent with the provisions of NRS 361.473, 361.4731 and 361.4732, methodologies for allocating among the appropriate taxing entities the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 if the property is included in or excluded from the boundaries of a redevelopment area, tax increment area or taxing entity after June 14, 2005.

2. Any regulations adopted by the Committee on Local Government Finance pursuant to this section must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

Sec. 24. NRS 361.4733 is hereby amended to read as follows:

361.4733 1. The Committee on Local Government Finance ~~[may]~~ *shall* adopt:

(a) *Such regulations as it determines to be appropriate to provide for the allocation among the appropriate taxing entities of the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, in accordance with the principles that:*

(1) Any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is caused by an increase in the rate of taxes imposed by one or more taxing entities should be allocated to the taxing entities that would have received the benefit of that increase in proportion to

the relative amount of benefit that otherwise would have been received from that increase;

(2) Any increase in the rate of ad valorem taxes imposed by a taxing entity should not affect the amount of ad valorem taxes received by other taxing entities, except for redevelopment agencies and tax increment areas whose property tax receipts depend on the tax rate of the taxing entity that increases its rate of taxes and whose territory is included, in whole or in part, in the territory of the taxing entity that increases its rate of taxes; and

(3) A taxing entity that does not increase its rate of ad valorem taxes should not be allocated any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, except for any reduction caused by an increase in the assessed value of that parcel or other taxable unit of real property; and

(b) Subject to the principles set forth in paragraph (a):

(1) Such regulations as it determines to be appropriate for the administration and interpretation of the provisions of NRS ~~[361.473, 361.4731 and]~~ 361.4732; and

~~[(b)]~~ *(2)* Regulations which provide ~~[, in a manner that is consistent with the provisions of NRS 361.473, 361.4731 and 361.4732,]~~ methodologies for allocating among the appropriate taxing entities the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 if the property is included in or excluded from the boundaries of a redevelopment area, tax increment area or taxing entity after June 14, 2005.

2. Any regulations adopted by the Committee on Local Government Finance pursuant to this section must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

Sec. 25. NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722, 361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the tax receiver of the county in which the property is located. *The petition must be submitted on or before January 15 of the fiscal year for which the determination is effective.* The tax receiver shall, after consulting with the county assessor of that county regarding the determination and within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

(b) Is valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the Department. The Department shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

2. A taxpayer who is aggrieved by a decision rendered by a tax receiver or the Department pursuant to subsection 1 may, within 30 days after receiving notice of that decision, appeal the decision to the Nevada Tax Commission.

3. A taxpayer who is aggrieved by a determination of the Nevada Tax Commission rendered on an appeal made pursuant to subsection 2 is entitled to a judicial review of that determination.

Sec. 26. NRS 361.4835 is hereby amended to read as follows:

361.4835 1. If the county treasurer or the county assessor finds that a person's failure to make a timely return or payment of tax that is assessed by the county treasurer or county assessor and that is imposed pursuant to chapter 361 of NRS, except NRS 361.320, is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the county treasurer or the county assessor may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must *pay the amount of the tax due and, within 30 days after the date the payment is made,* file a statement setting forth the facts upon which he bases his claim with the county treasurer or the county assessor.

3. The county treasurer or the county assessor shall disclose, upon the request of any person:

(a) The name of the person; and

(b) The amount of the relief.

4. If the relief sought by the taxpayer is denied, he may appeal from the denial to the Nevada Tax Commission.

5. The county treasurer or the county assessor may defer the decision to the Department.

Sec. 27. Section 57 of chapter 496, Statutes of Nevada 2005, at page 2680, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

~~[4. Section 23 of this act becomes effective on July 1, 2007.~~

~~5. Section 43 of this act expires by limitation on June 30, 2007.]~~

Sec. 28. 1. NRS 361.4711, 361.4713, 361.4714, 361.4716, 361.4717, 361.4718, 361.4719, 361.472, 361.473 and 361.4731 are hereby repealed.

2. Section 23 of chapter 496, Statutes of Nevada 2005, at page 2660, is hereby repealed.

Sec. 29. 1. The Legislature hereby approves, confirms and ratifies the regulations adopted by the Committee on Local Government Finance pursuant to NRS 361.4733 before the effective date of this section.

2. The Committee on Local Government Finance shall adopt the regulations required pursuant to the amendatory provisions of section 23 of this act not later than December 31, 2007.

Sec. 30. 1. This section and section 27, subsection 2 of section 28 and section 29 of this act become effective upon passage and approval.

2. Sections 1 to 13, inclusive, 15, 19 to 23, inclusive, 25 and 26 of this act become effective on July 1, 2007.

3. Sections 15 and 23 of this act expire by limitation on December 31, 2007.

4. Sections 14, 16, 17, 18 and 24 and subsection 1 of section 28 of this act become effective on January 1, 2008.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

361.4711 "Abatement percentage" defined.

361.4713 "Base-year assessed value" defined.

361.4714 "Base-year assessed value percentage" defined.

361.4716 "Incremental assessed value" defined.

361.4717 "Parcel-proportionate share of the base value" defined.

361.4718 "Redevelopment agency" defined.

361.4719 "Redevelopment area" defined.

361.472 "Redevelopment taxing entity" defined.

361.473 Allocation of certain portions of reduction in revenue resulting from partial abatements applicable to property for which tax rate increases: Generally.

361.4731 Allocation of certain portions of reduction in revenue resulting from partial abatements applicable to property for which tax rate increases: Property in or apportioned to redevelopment area.

Section 23 of chapter 496, Statutes of Nevada 2005:

Sec. 23. NRS 361.530 is hereby amended to read as follows:

361.530 ~~[1. Except as otherwise provided in this section, on]~~ *On* all money collected from personal property tax by the several county assessors and county treasurers, there must be reserved and paid into the county treasury, for the benefit of the general fund of their respective counties, by the county assessor or county treasurer, a percentage commission of ~~[8]~~ *6* percent on the gross amount of collections from personal property tax.

~~[2. One-quarter of the commission reserved pursuant to subsection 1 must be accounted for separately in the account for the acquisition and improvement of technology in the office of the county assessor created pursuant to NRS 250.085.]~~

Senator Coffin moved the adoption of the amendment.

Remarks by Senators Coffin, Carlton, Care, McGinness, Titus and Hardy.

Motion carried on a division of the house.
Amendment adopted.
Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 244.
Bill read third time.
Remarks by Senators Care and Washington.
Roll call on Assembly Bill No. 244:
YEAS—21.
NAYS—None.

Assembly Bill No. 244 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 296.
Bill read third time.
The following amendment was proposed by Senator Amodei:
Amendment No. 1019.
"SUMMARY— ~~[Expresses the sense of the Legislature]~~ *Enacts provisions* concerning the temporary conversion of certain water rights. (BDR 48-978)"
"AN ACT relating to water; expressing the sense of the Legislature as to the policy of this State concerning the temporary conversion of certain water rights for certain ecological purposes; *setting forth the requirements for carrying out such a temporary conversion;* and providing other matters properly relating thereto."
Legislative Counsel's Digest:
This bill *; (1)* provides that it is the policy of the State of Nevada to allow the temporary conversion of certain agricultural water rights for wildlife purposes or to improve the quality or flow of water ~~[.]~~ *; and (2) sets forth the requirements for carrying out such a temporary conversion.*

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Legislature hereby finds and declares that it is the policy of this State to allow the temporary conversion of agricultural water rights for wildlife purposes or to improve the quality or flow of water.

2. If a person or entity proposes to temporarily convert agricultural water rights for wildlife purposes or to improve the quality or flow of water, such temporary conversion:

(a) Must not be carried out unless the person or entity first applies for and receives from the State Engineer any necessary permits or approvals required pursuant to:

(1) The provisions of this chapter; and

(2) Any applicable decisions, orders, procedures and regulations of the State Engineer.

(b) Except as otherwise provided in this paragraph, must not exceed 3 years in duration. A temporary conversion of agricultural water rights for wildlife purposes or to improve the quality or flow of water may be extended in increments not to exceed 3 years in duration each, provided that the person or entity seeking the extension first applies for and receives from the State Engineer any necessary permits or approvals, as described in paragraph (a).

Sec. 2. (Deleted by amendment.)

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

Senator Amodei moved the adoption of the amendment.

Remarks by Senators Amodei and Titus.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 326.

Bill read third time.

Roll call on Assembly Bill No. 326:

YEAS—18.

NAYS—Beers, Cegavske, Heck—3.

Assembly Bill No. 326 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 373.

Bill read third time.

Roll call on Assembly Bill No. 373:

YEAS—21.

NAYS—None.

Assembly Bill No. 373 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 396.

Bill read third time.

The following amendment was proposed by Senator Heck:

Amendment No. 978.

"SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-1284)"

"AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that official publications related to issues of official interest must provide equal space for

opposing views and opinions; revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 2.5 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section ~~9~~ of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 9 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a

common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Section 13 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. (NRS 116A.410)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 1.2. NRS 116.021 is hereby amended to read as follows:

116.021 *1.* "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

Sec. 1.3. (Deleted by amendment.)

Sec. 1.7. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the

owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ *3* years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the

nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in

NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. (Deleted by amendment.)

Sec. 6.5. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of *the* financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ *;*

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 6.7. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.5. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent

of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 9.5. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide *financing,* goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing *financing,* goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any *financing,* goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 9.6. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may

restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. *An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.*

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 9.8. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ *:*

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of *inoperable vehicles,* recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. *The regulations must include, without limitation, provisions that:*

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association; and

(II) Has management experience determined to be sufficient by the executive board of the association making the offer in sub-subparagraph (I). The executive board must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association which offered him employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate ~~[.]~~ *other than a temporary certificate described in paragraph (a).* If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(d) Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

(e) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this subsection, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

~~[Sec. 13.]~~ *Sec. 14.* The amendatory provisions of section 2.5 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.

Senator Heck moved the adoption of the amendment.

Remarks by Senators Heck, Titus, Horsford, Schneider, Raggio and Mathews.

Amendment adopted.

The following amendment was proposed by Senator Schneider:

Amendment No. 1002.

"SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-1284)"

"AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section ~~[1]~~ *1.1* of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 1.15 of this bill: (1) states that the provisions of chapter 116 of NRS do not invalidate or modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Section 2.5 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section 9 of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 9 provides that if an official publication contains any mention of a candidate or

ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 1.1 and 1.15 of this act.*

Sec. 1.1. 1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 1.15. 1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.

2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.

3. As used in this section, "public utility" has the meaning ascribed to it in NRS 704.020.

Sec. 1.2. NRS 116.021 is hereby amended to read as follows:

116.021 *1.* "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

Sec. 1.3. (Deleted by amendment.)

Sec. 1.7. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ *3* years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood,

marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association

before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. (Deleted by amendment.)

Sec. 6.5. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of *the* financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ *;*

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 6.7. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.5. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 9.5. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide *financing,* goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing *financing,* goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any *financing,* goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 9.6. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. *An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of*

any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 9.8. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ *:*

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of *inoperable vehicles,* recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. The amendatory provisions of section 2.5 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Amendment adopted.

The following amendment was proposed by Senator Townsend:

Amendment No. 1024.

"SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-1284)"

"AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 2.5 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section ~~9~~ of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 9 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

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

Se~~c~~tion 1. *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, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

2. *The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.*

3. For the purposes of this section ~~[~~, "unreasonably~~]~~ *:*

(a) "Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.

(b) "Unreasonably restricts the use of a system for obtaini~~ng~~ solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

~~[Section 1.]~~ *Sec. 2.* Chapter 116 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 3, 4 and 5.*

Sec. 3. 1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 4. 1. The executive board of a common-interest community shall not, and the governing documents of a common-interest community must not,

restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.

2. The provisions of this section do not preclude the governing documents of a common-interest community from reasonably restricting the parking or storage of a motorcycle to the extent authorized by law.

3. As used in this section, "motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground which is required to be registered pursuant to chapter 482 of NRS.

Sec. 5. 1. A member of the executive board of a common-interest community, a community manager for the common-interest community and any other representative of the association shall not use a radar gun or other device designed to gauge the speed of a vehicle for the purpose of imposing any fine or other penalty upon or taking any other action against a unit's owner or other person.

2. The executive board of a common-interest community shall not impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

3. The governing documents of a common-interest community must not authorize the executive board or any other person to impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

~~[Sec. 1.2.]~~ *Sec. 6.* NRS 116.021 is hereby amended to read as follows:

116.021 *1.* "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

~~[Sec. 1.3.]~~ *Sec. 7.* (Deleted by amendment.)

~~[Sec. 1.7.]~~ *Sec. 8.* (Deleted by amendment.)

~~[Sec. 2.]~~ *Sec. 9.* (Deleted by amendment.)

~~[Sec. 2.5]~~ *Sec. 10.* NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units′ owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units′ owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors′ and officers′ liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or

improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units′ owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 11. *NRS 116.31031 is hereby amended to read as follows:*

116.31031 1. Except as otherwise provided in this section, if a unit′s owner or a tenant or guest of a unit′s owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit′s owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit′s owner or the tenant or guest of the unit′s owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit′s owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units′ owners , ~~[or]~~ residents *or community manager* of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat

of causing a substantial adverse effect on the health, safety or welfare of the units' owners, ~~[or]~~ residents *or community manager* of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the *unit's owner and, if different, the* person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the *unit's owner and, if different, the* person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

(For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is delivered to the address of the unit and, if different, to a mailing address specified by the unit's owner.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the *unit's owner and, if different, the* person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless *the fine is paid before the hearing or unless* the *unit's owner and, if different, the* person against whom the fine will be imposed:

(a) ~~[Pays the fine;~~

~~(b)]~~ Executes a written waiver of the right to the hearing; or

~~[(c)]~~ *(b)* Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on

behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. *A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:*

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

8. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[8.]~~ *9.* Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the *units' owners,* residents *or community manager* of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed $20, if the outstanding balance is less than $200.

(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.

(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.

(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.

(5) May not exceed $500, if the outstanding balance is $5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[9.]~~ *10. Not later than 30 days after receiving payment in full of a fine, including any lawful interest and costs of collection, an association shall provide written confirmation to the person upon whom the fine was imposed that the fine and all related charges have been paid in full and that the fine is discharged.*

11. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 12. *NRS 116.310315 is hereby amended to read as follows:*

116.310315 If an association has imposed a fine against a unit's owner or a tenant or guest of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~[:]~~ *shall:*

1. ~~[Shall, in]~~ *In* the books and records of the association, account for the fine separately from any assessment, fee or other charge; and

2. ~~[Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.]~~ *Apply any payment received from a unit's owner without written instructions as to the application of the payment:*

(a) First to current or past due assessments; and

(b) Then the remainder of any payment to past due fines, including the costs of collecting any such fine, unless the unit's owner has stated in writing that no amount of the payment is to be applied toward the fines or toward the costs of collecting the fines.

Sec. 13. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ *3* years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each

unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association. *Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to this subsection, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then:*

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The candidates so nominated shall be deemed to be duly elected to the executive board not later than 30 days after the date of closing of the prescribed period for nominations; and

(c) Units' owners will receive notification that the candidates so nominated have been elected to the executive board.

5. Each person ~~[whose name is placed on the ballot]~~ *who is nominated* as a candidate for a member of the executive board *pursuant to subsection 4* must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate ~~[has]~~ *:*

(1) Has any unpaid and past due assessments or construction penalties that are required to be paid to the association ~~[.]~~ *;*

(2) Has any unpaid fine imposed by the executive board that is 30 days or more past due; or

(3) After being provided notice and the opportunity for a hearing in accordance with the provisions of NRS 116.31031, has been found to have committed a violation of the governing documents that has not been cured.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot *or, in the event ballots are not prepared and mailed pursuant to subsection 4,* in the manner established *for distribution of ballots* in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood,

marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. ~~[The]~~ *Except as otherwise provided in subsection 4, the* election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or

counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 14. *NRS 116.31038 is hereby amended to read as follows:*

116.31038 In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units′ owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of ~~[inception]~~ *the last audit* of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association′s financial position. *The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.*

3. A complete study of the reserves of the association, conducted by a person who ~~[holds a permit to conduct such a study issued]~~ *is registered as a reserve study specialist* pursuant to chapter 116A of NRS. At the time the control of the declarant ends, he shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant′s share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which he has subsidized the association′s dues on a per unit or per lot basis.

4. The association′s money or control thereof.

5. All of the declarant′s tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant′s property, all of the declarant′s tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units′ owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant′s records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units′ owners have any obligation to pay a fee to the persons performing the services.

Sec. 15. *NRS 116.310395 is hereby amended to read as follows:*

116.310395 1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.

2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first ~~[sale]~~ *close of escrow* of a unit.

Sec. 16. *NRS 116.31083 is hereby amended to read as follows:*

116.31083 1. A meeting of the executive board must be held at least once every ~~[90]~~ *quarter, and not less than once every 100* days.

2. Except ~~[in an emergency]~~ *as otherwise provided in subsection 3 or 4* or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not

less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. ~~[In]~~ *Except as otherwise provided in subsection 4, in* an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. *If the sole purpose of a meeting of the executive board is to meet in executive session pursuant to subsection 4 of NRS 116.31085, notice of the meeting pursuant to this section is not required.*

5. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

~~[5.]~~ *6.* The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

~~[6.]~~ *7.* At least once every ~~[90]~~ *quarter, and not less than once every 100* days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

~~[7.]~~ *8.* The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units′ owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit′s owner.

~~[8.]~~ *9.* Except as otherwise provided in subsection ~~[9]~~ *10* and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member′s vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

~~[9.]~~ *10.* The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

~~[10.]~~ *11.* The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

~~[11.]~~ *12.* A unit′s owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit′s owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units′ owners who are in attendance at the meeting.

~~[12.]~~ *13.* As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units′ owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or ~~[5.]~~ *6.*

~~[Sec. 4.]~~. (Deleted by amendment.)

~~[Sec. 5.]~~ (Deleted by amendment.)

~~[Sec. 6.]~~ *Sec. 17.* (Deleted by amendment.)

~~[Sec. 6.3.]~~ *Sec. 18.* (Deleted by amendment.)

~~[Sec. 6.5.]~~ *Sec. 19.* NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of *the* financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ *;*

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an

exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 20. *NRS 116.3115 is hereby amended to read as follows:*

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. *Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community if such assessments are made pursuant to findings contained in a study of the reserves of the association prepared by a person who is registered as a reserve study specialist pursuant to chapter 116A of NRS.*

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed

against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 21. *NRS 116.31152 is hereby amended to read as follows:*

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements *.* ~~[;]~~

(b) At least annually, review the results of that study to determine whether those reserves are sufficient *.* ~~[; and]~~ *The reserves shall be deemed adequately funded if:*

(1) The amount of the reserves is equal to or greater than the amount specified in the funding plan; or

(2) The amount of reserves available for the next 5 years is sufficient to repair, replace and restore the major components of the common elements designated in the funding plan.

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who ~~[holds a permit issued]~~ *is registered as a reserve study specialist* pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

~~[Sec. 6.7.]~~ *Sec. 22.* (Deleted by amendment.)

~~[Sec. 7.]~~ *Sec. 23.* (Deleted by amendment.)

~~[Sec. 7.5.]~~ *Sec. 24.* (Deleted by amendment.)

~~[Sec. 8.]~~ *Sec. 25.* (Deleted by amendment.)

~~[Sec. 9.]~~ *Sec. 26.* NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit′s owner, except for those records described in subsection 2; ~~[and]~~

(c) A contract between the association and an attorney.~~[.]~~ *; and*

(d) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit′s owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit′s owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units′ owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit′s owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and

without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

~~[Sec. 9.5.]~~ *Sec. 27.* NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide *financing,* goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing *financing,* goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any *financing,* goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

~~[Sec. 9.6.]~~ *Sec. 28.* NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. *An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.*

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

~~[Sec. 9.8.]~~ *Sec. 29.* NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or

device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ *:*

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of *inoperable vehicles,* recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 30. *NRS 116.411 is hereby amended to read as follows:*

116.411 1. Except as otherwise provided in subsections 2 [~~and 3,~~] *, 3 and 4,* a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:

(a) The legal right to conduct business in this State;

(b) A resident agent in this State pursuant to subsection 1 of NRS 14.020; and

(c) Consented to the jurisdiction of the courts of this State by:

(1) Maintaining a physical presence in this State; or

(2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.

Sec. 31. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who ~~[holds a permit to conduct a study of the reserves of an association issued]~~ *is registered as a reserve study specialist, or who conducts a study of reserves,* pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 32. *NRS 116A.120 is hereby amended to read as follows:*

116A.120 ~~["Permit"]~~ *"Registration"* means ~~[a permit]~~ *registration* to conduct a study of the reserves of an association pursuant to NRS 116.31152 ~~[issued by]~~ *with* the Division pursuant to this chapter.

Sec. 33. *NRS 116A.260 is hereby amended to read as follows:*

116A.260 The Division shall maintain in each district office a public docket or other record in which it shall record, from time to time as made:

1. The rulings or decisions upon all complaints filed with that district office.

2. All investigations instituted by that district office in the first instance, upon or in connection with which any hearing has been held, or in which the person charged has made no defense.

3. Denials of applications made to that district office for examination *, registration* or issuance of a certificate *.* ~~[or permit.]~~

Sec. 34. *NRS 116A.410 is hereby amended to read as follows:*

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. *The regulations must include, without limitation, provisions that:*

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association; and

(II) Has management experience determined to be sufficient by the executive board of the association making the offer in sub-subparagraph (I). The executive board must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association which offered him employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate ~~[.]~~ *other than a temporary certificate described in paragraph (a).* If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) May require an investigation of an applicant″s background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(d) Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

(e) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 35. *NRS 116A.420 is hereby amended to read as follows:*

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person ~~[holds a permit.]~~ *registers with the Division on a form provided by the Division.*

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists . ~~[who hold permits.]~~

3. The Division may investigate any reserve study specialist ~~[who holds a permit]~~ to ensure that the reserve study specialist is complying with the provisions of this chapter and chapter 116 of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist ~~[who holds a permit]~~ has violated any provision of this chapter or chapter 116 of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to ~~[issue a permit to]~~ *accept the registration of* a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the ~~[permit]~~ *registration* of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

7. A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.

Sec. 36. *NRS 116A.430 is hereby amended to read as follows:*

116A.430 1. The Commission shall by regulation provide for the ~~[issuance]~~ *registration* by the Division of ~~[permits to]~~ reserve study specialists. The regulations:

(a) Must establish the qualifications for ~~[the issuance of such a permit,]~~ *registration,* including, without limitation, the education and experience required ~~[to obtain such a permit.]~~ *for registration.*

(b) May require applicants to pass an examination ~~[in order to obtain a permit.]~~ *for registration.* If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(d) Must establish the grounds for initiating disciplinary action against a person ~~[to whom a permit has been issued,]~~ *who has registered,* including, without limitation, the grounds for placing conditions, limitations or restrictions on ~~[a permit]~~ *registration* and for the suspension or revocation of ~~[a permit.]~~ *registration.*

(e) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for ~~[the issuance of a permit]~~ *registration* in an amount not to exceed the administrative costs of ~~[issuing the permit.]~~ *registration.*

Sec. 37. *NRS 116A.440 is hereby amended to read as follows:*

116A.440 1. An applicant for a certificate or ~~[permit]~~ *registration* shall submit to the Division:

(a) The social security number of the applicant; and

(b) The statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Division.

3. A certificate ~~[or permit]~~ may not be issued *and an application for registration may not be accepted* if the applicant:

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

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

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

Sec. 38. *NRS 116A.450 is hereby amended to read as follows:*

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to *a person who is registered or* the holder of a certificate *,* ~~[or permit,]~~ the

Division shall deem the *registration or* certificate ~~[or permit]~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the *person who is registered or the* holder of the certificate ~~[or permit]~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the *person who is registered or the* holder of the certificate ~~[or permit]~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a *registration or* certificate ~~[or permit]~~ that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the *person who is registered or the* holder of the certificate ~~[or permit]~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 39. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a *registration or* certificate ~~[or permit]~~ by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a *registration or* certificate ~~[or permit]~~ by the *person who is registered or the* holder of the certificate ~~[or permit]~~ does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the *person who is registered or the* holder of the certificate ~~[or permit]~~ as authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto against the *person who is registered or the* holder of the certificate . ~~[or permit.]~~

Sec. 40. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a *registration or* certificate ~~[or permit]~~ is required pursuant to this chapter or chapter 116 of NRS, or any regulation adopted pursuant thereto, if the person *has not registered or* does not hold the required certificate ~~[or permit]~~ or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 41. *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 the owner of real property from using a system for obtaining solar or wind energy on his property.

2. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

3. *The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.*

4. For the purposes of this section ~~[~~, "unreasonably"~~]~~ :

(a) "Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.

(b) "Unreasonably restricting the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

Sec. 42. *NRS 360.765 is hereby amended to read as follows:*

360.765 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit; or

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A unit-owners' association organized pursuant to NRS 116.3101 as a nonprofit corporation, trust or partnership.

~~[Sec. 10.]~~ *Sec. 43.* (Deleted by amendment.)

~~[Sec. 11.]~~ *Sec. 44.* (Deleted by amendment.)

~~[Sec. 12.]~~ *Sec. 45.* (Deleted by amendment.)

~~[Sec. 13.]~~ *Sec. 46.* The amendatory provisions of section ~~[2.5]~~ *10* of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.

Sec. 47. 1. This act becomes effective on October 1, 2007.

2. Sections 39 and 40 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ *are repealed by the Congress of the United States.*

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

The following amendment was proposed by Senator Beers:

Amendment No. 1015.

"SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-1284)"

"AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 2.5 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section ~~9~~ of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 9 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision′s final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 1.2. NRS 116.021 is hereby amended to read as follows:

116.021 *1.* "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

Sec. 1.3. (Deleted by amendment.)

Sec. 1.7. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units′ owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant′s control, the units′ owners shall elect an executive board of at least three members, at least a majority of whom must be units′ owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units′ owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ *3* years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit′s owner.

(b) Each unit′s owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. (Deleted by amendment.)

Sec. 6.5. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of *the* financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ *;*

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 6.7. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.5. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including,

without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit′s owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit′s owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit′s owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units′ owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit′s owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and

without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 9.5. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide *financing,* goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing *financing,* goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any *financing,* goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 9.6. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units′ owners of the planned community unless the association obtains the written consent of a majority of the units′ owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. *An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.*

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 9.8. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the

right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ *:*

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of *inoperable vehicles,* recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare ~~*[:*~~

~~*(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or*~~

~~*(2) If the person is:*~~

~~*(I) A unit's owner;*~~

~~*(II) Parking the vehicle within 50 yards of his unit; and*~~

~~*(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services;]*~~ *where parking is lawful if, as a condition of the person's employment, the utility service vehicle is required to be available, at designated periods, for the purpose of responding to an emergency; or*

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency" means a situation that poses a potential or immediate threat to human life or serious damage to property or the environment.

(c) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

~~*[(c)]*~~ *(d) "Law enforcement vehicle" means a vehicle:*

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

~~*[(d)]*~~ *(e) "Utility service vehicle" means any commercial motor vehicle:*

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of ~~*[public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna]*~~ *natural gas or electric utility service.*

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. The amendatory provisions of section 2.5 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.

Remarks by Senators Beers

Senator Beers withdrew Amendment No. 1015 to Assembly Bill No. 396.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 428.

Bill read third time.

The following amendment was proposed by Senator Amodei:

Amendment No. 948.

"SUMMARY—~~[Prohibits the use and acquisition of certain]~~ *Makes various changes relating to crimes involving the unlawful use of* personal identifying information of another ~~[without the prior consent of that]~~ person. (BDR 15-1334)"

"AN ACT relating to personal identifying information; prohibiting the use of certain personal identifying information of another to obtain any other personal identifying information of that person without the prior express consent of the person; *increasing the penalty for possessing, selling, transferring or obtaining and using the personal identifying information of another person under certain circumstances; creating a rebuttable inference of the intent to use the personal identifying information of another person unlawfully under certain circumstances; allowing a postal inspector of the*

United States Postal Inspection Service to make arrests without a warrant under certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits the use of the personal identifying information of another to harm that person or to obtain credit, a good, a service or anything of value in the name of that other person. (NRS 205.4617, 205.463, 205.464, 205.465) Section 1 of this bill provides that personal identifying information includes, without limitation, any information that can be used to identify the actions, communications or other activities or transactions of a person. (NRS 205.4617) Section 2 of this bill provides that a person who uses the personal identifying information of another, with the intent to commit an unlawful act, to: (1) represent or impersonate that other person to obtain access to any personal identifying information of that other person without the prior express consent of that other person, or (2) obtain access to any nonpublic record of the actions taken, communications made or received by, or other activities or transactions of that other person without the prior express consent of that other person is guilty of a category B felony. (NRS 205.463)

Sections 2, 3 and 4 of the bill also: (1) increase the penalties for using the personal identifying information of another person if the violation involves the personal identifying information of five or more persons or if the violation causes the victim to suffer a financial loss of $3,000 or more; and (2) create a rebuttable inference of the intent to use the personal identifying information of another person unlawfully if a person possesses the personal identifying information of five or more persons not in the ordinary course of his business or pursuant to a financial transaction entered into with an authorized user of a payment card.

Under existing law, arrests without a warrant may be made under certain circumstances by peace officers, officers of the Drug Enforcement Administration, agents of the Federal Bureau of Investigation or the Secret Service, officers of the Bureau of Indian Affairs or persons employed as police officers by an Indian tribe. (NRS 171.124, 171.1245, 171.1255) Section 5 of this bill allows a postal inspector of the United States Postal Inspection Service to also make arrests without a warrant under certain circumstances.

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

Section 1. NRS 205.4617 is hereby amended to read as follows:

205.4617 1. Except as otherwise provided in subsection 2, "personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a living or deceased person ~~[,]~~ *or to identify the actions taken, communications made or received by, or other activities or transactions of a living or deceased person,* including, without limitation:

(a) The current or former name, driver's license number, identification card number, social security number, checking account number, savings account number, credit card number, debit card number, financial services account number, date of birth, place of employment and maiden name of the mother of a person.

(b) The unique biometric data of a person, including, without limitation, the fingerprints, facial scan identifiers, voiceprint, retina image and iris image of a person.

(c) The electronic signature, unique electronic identification number, address or routing code, telecommunication identifying information or access device of a person.

(d) The personal identification number or password of a person.

(e) The alien registration number, government passport number, employer identification number, taxpayer identification number, Medicaid account number, food stamp account number, medical identification number or health insurance identification number of a person.

(f) The number of any professional, occupational, recreational or governmental license, certificate, permit or membership of a person.

(g) The number, code or other identifying information of a person who receives medical treatment as part of a confidential clinical trial or study, who participates in a confidential clinical trial or study involving the use of prescription drugs or who participates in any other confidential medical, psychological or behavioral experiment, study or trial.

(h) The utility account number of a person.

2. To the extent that any information listed in subsection 1 is designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify an artificial person, "personal identifying information" includes information pertaining to an artificial person.

Sec. 2. NRS 205.463 is hereby amended to read as follows:

205.463 1. Except as otherwise provided in subsections 2 and 3, a person who knowingly:

(a) Obtains any personal identifying information of another person; and

(b) ~~[Uses]~~ *With the intent to commit an unlawful act, uses* the personal identifying information ~~[to]~~ *:*

(1) To harm that other person *;*

(2) To represent or impersonate that other person to obtain access to any personal identifying information of that other person without the prior express consent of that other person;

(3) To obtain access to any nonpublic record of the actions taken, communications made or received by, or other activities or transactions of that other person without the prior express consent of that other person; or ~~[for]~~

(4) For any *other* unlawful purpose, including, without limitation, to obtain credit, a good, a service or anything of value in the name of that *other* person,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $100,000.

2. Except as otherwise provided in subsection 3, a person who knowingly:

(a) Obtains any personal identifying information of another person; and

(b) Uses the personal identifying information to avoid or delay being prosecuted for an unlawful act,

➥ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who violates:

(a) Subsection 1 or 2 by obtaining and using the personal identifying information of an older person or a vulnerable person; ~~[or]~~

(b) Subsection *1 or 2 by obtaining and using the personal identifying information of five or more persons;*

(c) Subsection 1 or 2 by causing another person to suffer a financial loss or injury of $3,000 or more as a result of the violation; or

(d) Subsection 2 to avoid or delay being prosecuted for an unlawful act that is punishable as a category A felony or category B felony,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $100,000.

4. In addition to any other penalty, the court shall order a person convicted of violating subsection 1 to pay restitution, including, without limitation, any attorney's fees and costs incurred to:

(a) Repair the credit history or rating of the person whose personal identifying information he obtained and used in violation of subsection 1; and

(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information he obtained and used in violation of subsection 1.

5. Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.

Sec. 3. NRS 205.464 is hereby amended to read as follows:

205.464 1. Except as otherwise provided in subsection 2, a public officer or public employee who knowingly:

(a) Obtains any personal identifying information of another person from any document, file, database, source or process used by a public body to collect, store, maintain, transfer, reproduce, manage or administer personal identifying information; and

(b) Uses the personal identifying information to harm that other person or for any unlawful purpose, including, without limitation, to obtain credit, a good, a service or anything of value in the name of that person,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $100,000.

2. A public officer or public employee who violates subsection 1 by ~~[obtaining]~~ :

(a) Obtaining and using the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining and using the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of $3,000 or more as a result of the violation,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 7 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $100,000.

3. Except as otherwise provided in subsection 4, a public officer or public employee who knowingly:

(a) Obtains any personal identifying information of another person from any document, file, database, source or process used by a public body to collect, store, maintain, transfer, reproduce, manage or administer personal identifying information; and

(b) Possesses, sells or transfers the personal identifying information for the purpose of establishing a false status, occupation, membership, license or identity for himself or any other person,

➥ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. A public officer or public employee who violates subsection 3 by ~~[obtaining]~~ :

(a) Obtaining and possessing, selling or transferring the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining and possessing, selling or transferring the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of $3,000 or more as a result of the violation,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $100,000.

5. Except as otherwise provided in subsection 6, a public officer or public employee who knowingly aids another public officer or public

employee to commit a violation of any provision of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. A public officer or public employee who violates subsection 5 by knowingly aiding another public officer or public employee in committing a violation of this section by ~~[obtaining]~~ :

(a) Obtaining the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of $3,000 or more as a result of the violation,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $100,000.

7. The provisions of this section do not prohibit the possession or use of any personal identifying information by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety while engaged in undercover investigations related to the lawful discharge of their duties.

8. In addition to any other penalty, the court shall order a public officer or public employee convicted of violating any provision of this section to pay restitution, including, without limitation, any attorney's fees and costs incurred, to:

(a) Repair the credit history or rating of the person whose personal identifying information the public officer or public employee obtained and used in violation of subsection 1; and

(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information the public officer or public employee obtained and used in violation of this section.

9. Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.

Sec. 4. NRS 205.465 is hereby amended to read as follows:

205.465 1. It is unlawful for a person to possess, sell or transfer any document or personal identifying information for the purpose of establishing a false status, occupation, membership, license or identity for himself or any other person.

2. Except as otherwise provided in subsection 3, a person who:

(a) Sells or transfers any such document or personal identifying information in violation of subsection 1; or

(b) Possesses any such document or personal identifying information in violation of subsection 1 to commit any of the crimes set forth in

NRS 205.085 to 205.217, inclusive, 205.473 to 205.513, inclusive, or 205.610 to 205.810, inclusive,

➥ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who violates subsection 2 by ~~[selling]~~ :

(a) Selling or transferring the personal identifying information of an older person or a vulnerable person ;

(b) Selling or transferring the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of $3,000 or more as a result of the violation,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $100,000.

4. Except as otherwise provided in this subsection and subsections 2 and 3, a person who possesses any such document or personal identifying information in violation of subsection 1 is guilty of a category E felony and shall be punished as provided in NRS 193.130. If a person possesses any such document or personal identifying information in violation of subsection 1 for the sole purpose of establishing false proof of age, including, without limitation, establishing false proof of age to game, purchase alcoholic beverages or purchase cigarettes or other tobacco products, the person is guilty of a misdemeanor.

5. Subsection 1 does not:

(a) Preclude the adoption by a city or county of an ordinance prohibiting the possession of any such document or personal identifying information; or

(b) Prohibit the possession or use of any such document or personal identifying information by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety while engaged in undercover investigations related to the lawful discharge of their duties.

6. Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.

Sec. 5. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

A postal inspector of the United States Postal Inspection Service may, without a warrant, arrest a person:

1. For a public offense committed or attempted in his presence.

2. When the person arrested has committed a felony or gross misdemeanor, although not in his presence.

3. When a felony or gross misdemeanor has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.

4. On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.

5. When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and he has reasonable cause to believe that the person arrested is the person so named or described.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 439.

Bill read third time.

Roll call on Assembly Bill No. 439:

YEAS—21.

NAYS—None.

Assembly Bill No. 439 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 460.

Bill read third time.

Roll call on Assembly Bill No. 460:

YEAS—21.

NAYS—None.

Assembly Bill No. 460 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 462.

Bill read third time.

Roll call on Assembly Bill No. 462:

YEAS—17.

NAYS—Care, Carlton, Titus, Wiener—4.

Assembly Bill No. 462 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 483.

Bill read third time.

Roll call on Assembly Bill No. 483:

YEAS—21.

NAYS—None.

Assembly Bill No. 483 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 508.
Bill read third time.
Roll call on Assembly Bill No. 508:
YEAS—21.
NAYS—None.

Assembly Bill No. 508 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 514.
Bill read third time.
The following amendment was proposed by Senator Beers:
Amendment No. 1003.
"SUMMARY—Makes various changes to the Charter of the City of Las Vegas. (BDR S-1381)"
"AN ACT relating to the City of Las Vegas; making various changes to the powers of the City Council; making various other changes to the Charter of the City of Las Vegas; and providing other matters properly relating thereto."
Legislative Counsel's Digest:
Section 1 of this bill provides that the City Council of the City of Las Vegas has the power to adopt necessary and proper ordinances for the development and provision of affordable housing, but prohibits the imposition or increase of a tax by the City Council for those purposes unless otherwise authorized by specific statute.
Section 3 of this bill provides that the City Council has the power to adopt necessary and proper ordinances for the development and provision of employment and training programs, but prohibits the imposition or increase of a tax by the City Council for those purposes unless otherwise authorized by specific statute.
Section 4 of this bill provides for the appointment of Hearing Commissioners by the City Council to hear and decide certain misdemeanor actions.
Section 8 of this bill amends the time by which a proposed ordinance must be adopted or rejected by the City Council from 30 days to 60 days. (Las Vegas City Charter § 2.110)
Section 9 of this bill authorizes the City Council to adopt an alternative procedure for a person to appeal the denial, suspension or revocation of a work permit or an identification card. (Las Vegas City Charter § 2.130)
Section ~~[11]~~ *10.3* of this bill ~~[authorizes the Director of Financial Management of the City to serve as the City Treasurer if appropriate internal accounting controls are maintained.]~~ *requires the City Manager to appoint a*

City Treasurer, subject to ratification by the City Council. (Las Vegas City Charter ~~[§ 3.150)]~~ *§ 3.070)*

Section 11 of this bill eliminates a requirement that the City Treasurer perform duties designated by the Director of Financial Management, and instead requires the City Treasurer to perform duties that may be prescribed by ordinance by the City Council or designated by the City Manager. (Las Vegas City Charter § 3.150)

Section 12 of this bill removes the requirement that the Director of Public Services be a licensed professional engineer. (Las Vegas City Charter § 3.190)

Existing law provides that a Master Judge must be selected on the basis of seniority. (Las Vegas City Charter § 4.020) Section 13 of this bill provides that the Municipal Judges shall elect the Master Judge from among their own number to serve for a 2-year term. In the event of a tie vote, the tie is to be decided by the drawing of lots.

Section 14 of this bill provides that the City Council may determine that the System of Civil Service must be administered by a Board of Civil Service Trustees. (Las Vegas City Charter § 10.010)

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

Section 1. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 2.145, immediately following section 2.140, to read as follows:

Sec. 2.145 Powers of City Council: Affordable Housing.

1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, the City Council may exercise such powers and enact such ordinances, not in conflict with the laws of this State, as the City Council determines are necessary and proper for the development and provision of affordable housing.

2. The City Council shall not impose or increase a tax for the purposes set forth in subsection 1 unless the tax or increase is otherwise authorized by specific statute.

Sec. 2. (Deleted by amendment.)

Sec. 3. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 3.300, immediately following section 3.290, to read as follows:

Sec. 3.300 Programs: Employment and Training.

1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, the City Council may exercise such powers and enact such ordinances, not in conflict with the laws of this State, as the City Council determines are necessary and proper for the development and provision of programs relating to employment and training.

2. The City Council shall not impose or increase a tax for the purposes set forth in subsection 1 unless the tax or increase is otherwise authorized by specific statute.

Sec. 4. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 4.040, immediately following section 4.030, to read as follows:

Sec. 4.040 Hearing Commissioners.

1. The City Council may appoint one or more Hearing Commissioners to hear and decide:

(a) Any action for a misdemeanor constituting a violation of chapter 484 of NRS, except NRS 484.379; and

(b) Any action for a misdemeanor constituting a violation of the Las Vegas Municipal Code, except chapter 11.14 of that Code.

2. Each Hearing Commissioner must:

(a) Be a duly licensed member, in good standing, of the State Bar of Nevada;

(b) Be a resident of the State;

(c) Be a qualified elector in the City;

(d) Have been a bona fide resident of the City for not less than 1 year next preceding his appointment; and

(e) Not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline.

3. In connection with any action of a type described in subsection 1, a Hearing Commissioner has all the powers and duties of a Municipal Judge and a magistrate pursuant to the laws of this State. To the extent possible and practicable, the proceedings in such actions must be subject to and governed by the provisions of the laws of this State, this Charter and city ordinances pertaining to Municipal Judges.

4. Hearing Commissioners shall receive such compensation as may be allowed by the City Council.

Sec. 5. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 515, Statutes of Nevada 1997, at page 2451, is hereby amended to read as follows:

Sec. 1.160 Elective Offices: Vacancies.

1. A vacancy in the office of Mayor, Councilman or Municipal Judge must be filled by the majority vote of the entire City Council within 30 days after the occurrence of that vacancy. A person may be selected to fill a prospective vacancy ~~[in the City Council]~~ before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have

the same qualifications as are required of the elective official ~~[.]~~ *, including, without limitation, any applicable residency requirement.*

2. No appointment extends beyond the first regular meeting of the City Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the Tuesday after the first Monday in the next succeeding June in an odd-numbered year, if no general municipal election is held in that year.

Sec. 6. (Deleted by amendment.)

Sec. 7. Section 2.040 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1394, is hereby amended to read as follows:

Sec. 2.040 Mayor and Councilmen not to hold other office.

1. The Mayor and Councilmen may not:

(a) Hold any other elective office of the State or any political subdivision of the State or any other employment with the County or the City, except as is provided by law or as a member of a board or commission for which no compensation is received.

(b) Be ~~[elected or]~~ appointed to any office which was created, or the compensation for which was increased or fixed, by the City Council until 1 year after the expiration of the term for which the Mayor or Councilman was elected or appointed.

2. Any person who ~~[accepts any office which is proscribed by]~~ *violates the provisions of* subsection 1 automatically forfeits his office as Mayor or Councilman.

Sec. 8. Section 2.110 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 568, Statutes of Nevada 1991, at page 1882, is hereby amended to read as follows:

Sec. 2.110 Ordinances: Procedure for enactment; emergency ordinances.

1. All proposed ordinances, when they are first proposed, must be read to the City Council by title and *may be* referred for consideration to a committee which is composed of any number of members of the City Council who are designated by the Mayor, after which an adequate number of copies of the proposed ordinance must be deposited with the City Clerk for public examination and distribution upon request. Except as otherwise provided in subsection 3 and for the adoption of specialized or uniform codes, notice of the deposit must be published once at least 10 days before the adoption of the ordinance. The City Council must adopt or reject the ordinance, or an amendment thereto, within ~~[30]~~ *60* days after the date of that publication. *A committee described in this subsection shall meet as often as is reasonably necessary but not less frequently than once each calendar quarter.*

2. ~~[At the first regular meeting of the City Council, or any adjournment of that meeting, after the proposal of an ordinance and its reference to a committee, the committee must report to the City Council with respect to the proposed ordinance, at which time the committee may request additional time to consider it. The committee must complete its additional consideration of the proposed ordinance and report its recommendations to the board with the 30-day period which is specified in subsection 1. After a recommendation by the committee for the adoption of the proposed ordinance, the]~~ *Following the first reading by title, an ordinance that has been referred pursuant to subsection 1 must be considered by the committee. Such committee must report its recommendations, if any, to the City Council. Regardless of whether a* proposed ordinance *is referred to a committee pursuant to subsection 1, it* must be read by title as first introduced, or as amended, and finally voted upon or action thereon postponed, but the proposed ordinance must be adopted, with or without amendments, or rejected within ~~[30]~~ *60* days after the date of the publication which is provided for in subsection 1.

3. In cases of emergency or where the ordinance is of a kind whose enactment as if an emergency existed is permitted by a provision of NRS or section 7.020 or 8.210 of this Charter, final action, upon the unanimous vote of the entire City Council, may be taken immediately or at a special meeting which has been called for that purpose, and no notice of the filing of copies of the proposed ordinance with the City Clerk need be published.

4. Each ordinance must be signed by the Mayor, attested by the City Clerk and published at least once by title, together with the names of the members of the City Council who voted for or against its adoption, and the ordinance becomes effective on the day after that publication. The City Council may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

5. The City Clerk shall record all ordinances which have been adopted in a register which is kept for that purpose, together with the affidavits of publication by the publisher.

Sec. 9. Section 2.130 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1398, is hereby amended to read as follows:

Sec. 2.130 Powers of City Council: Denial, suspension or revocation of work permit; appeal to City Council ~~[.]~~ *; alternative procedure established by City Council.* Whenever under any city ordinance a person is required to obtain a work permit or an identification card from the Sheriff of the Las Vegas Metropolitan Police Department or any City officer as a condition of employment in any establishment which has been determined to be privileged by the City Council and licensed by the City, and his work permit or

identification card is denied, suspended or revoked by the Sheriff or City officer, the person aggrieved may ~~[appeal from that action to the City Council]~~ *,* by filing a written notice of appeal with the City Clerk within 10 days after the date of the denial, suspension or revocation of his work permit or identification card ~~[.]~~ *, appeal from that action to:*

(a) The City Council, unless the City Council has designated an administrative body pursuant to paragraph (b); or

(b) Any administrative body that the City Council has designated to hear such appeals. If such an administrative body denies a person's appeal, the person may appeal to the City Council.

Sec. 10. (Deleted by amendment.)

Sec. 10.3. *Section 3.070 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 45, Statutes of Nevada 1991, at page 93, is hereby amended to read as follows:*

Sec. 3.070 Appointive officers: Appointment by City Manager. The City Manager shall appoint the following officers, subject to ratification by the City Council:

1. Director of Financial Management.
2. Director of Public Services.
3. Fire Chief.
4. City Clerk.
5. *City Treasurer.*

6. A Director of each department which is established pursuant to section 3.060 of this Charter.

~~[6.]~~ *7.* Such other officers as may be necessary.

Sec. 10.5. *Section 3.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:*

Sec. 3.140 Department of Financial Management: Audits.

1. The Department of Financial Management shall maintain complete records of all fiscal transactions of and claims against the City.

2. Before payment, all claims and accounts against the City must be approved by the Department of Financial Management. No money may be paid for any purpose except by following procedures which have been approved by the City Council. The City Treasurer shall prepare all warrants, to be drawn against the proper accounts, in payment of those claims. The warrants which are issued must bear the signatures of the Director of Financial Management and the City Treasurer*.* ~~[, if any.]~~ Facsimile signatures may be permitted under the procedures which are prescribed by ordinance.

Sec. 11. Section 3.150 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:

Sec. 3.150 City Treasurer: Duties.

~~[1. The Director of Financial Management may *serve as the City Treasurer if appropriate internal accounting controls are maintained or may* recommend *a City Treasurer* for appointment by the City Manager.]~~ ~~[a City Treasurer.]~~

~~[2.]~~ The City Treasurer:

~~[(a)]~~ *1.* Shall perform such duties as may be ~~[designated by the Director of Financial Management or]~~ prescribed by ordinance ~~[.]~~ *or designated by the City Manager pursuant to section 3.180.*

~~[(b)]~~ *2.* Must provide a surety bond in the amount which is fixed by the City Council.

Sec. 12. Section 3.190 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1410, is hereby amended to read as follows:

Sec. 3.190 Director of Public Services: Qualifications. The Director of Public Services must ~~[be a licensed professional engineer in the State and]~~ have such ~~[other]~~ qualifications as may be prescribed by ordinance.

Sec. 13. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 127, Statutes of Nevada 1989, at page 283, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his full time to the duties of his office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

3. ~~[The Municipal Judge who holds seniority in years of service in office, either elected or appointed, is the Master Judge. If two or more Judges are equal in seniority, the]~~ *The Municipal Judges of the six departments shall elect a* Master Judge ~~[must be chosen]~~ from among ~~[them by the City Council.]~~ *their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the*

remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots. The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

4. Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while he is acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

5. Any Municipal Judge, other than an Alternate Judge, automatically forfeits his office if he ceases to be a resident of the City.

Sec. 14. Section 10.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 45, Statutes of Nevada 1991, at page 95, is hereby amended to read as follows:

Sec. 10.010 Civil Service.

1. There is hereby created a System of Civil Service which is applicable to and governs all of the employees of the City except the elected officials, persons who serve as members of boards, commissioners or committees for which no compensation is received, the City Manager, the City Attorney, persons who are appointed pursuant to sections 3.040 and 3.070 of this Charter, persons who hold such probationary, provisional or temporary appointments as are designated in the Civil Service rules, Alternate Judges and persons who hold such other positions as are designated by the City Council.

2. The *City Council may determine that the* System of Civil Service must be administered by a Board of Civil Service Trustees which is composed of five members who are appointed by the City Council for terms of 4 years.

3. The City Council shall adopt by ordinance ~~[, following their approval by the Board of Civil Service Trustees,]~~ a codification of the rules which govern the System of Civil Service and may from time to time amend those rules . ~~[by ordinance upon the recommendation of the]~~ *If the System of Civil Service is administered by a* Board of Civil Service Trustees ~~[. Those]~~ *, the rules which govern the System of Civil*

Service, and any amendments thereto, must be reviewed by the Board before the City Council adopts them.

4. The rules *which govern the System of Civil Service* must provide for:

(a) The examination of potential employees;

(b) Recruitment and placement procedures;

(c) The classification of positions;

(d) Procedures for the promotion of employees;

(e) Procedures for disciplinary actions against, and the discharge of, employees;

(f) Appeals with respect to actions which are taken pursuant to paragraphs (d) and (e);

(g) The acceptance and processing of citizens′ complaints against employees; and

(h) Such other matters *, if any,* as the Board of Civil Service Trustees *or the City Council* deems are necessary or appropriate.

~~[4.]~~ *5.* Copies of the rules of the System of Civil Service must be made available to all of the employees of the City.

Sec. 15. 1. This section becomes effective upon passage and approval.

2. Section 13 of this act becomes effective upon passage and approval for the purpose of electing a Master Judge and on July 1, 2007, for all other purposes.

3. Sections 1 to 12, inclusive, and 14 of this act become effective on July 1, 2007.

Senator Beers moved the adoption of the amendment.

Remarks by Senator Beers.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 521.

Bill read third time.

The following amendment was proposed by Senator Amodei:

Amendment No. 1021.

"SUMMARY—Revises provisions relating to ~~[the]~~ *various* crimes. ~~[of fraud and racketeering.]~~ (BDR 15-500)"

"AN ACT relating to crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; ~~[establishing the crime of participating in an organized retail theft ring;]~~ revising provisions relating to the crime of racketeering; *revising provisions relating to crimes against pregnant women;* authorizing the Attorney General to institute certain civil proceedings to enforce the provisions relating to deceptive trade practices; providing for the sharing of information and intelligence between the Attorney General and a state or federal investigative agency under certain circumstances; authorizing the Attorney General to seek certain equitable relief for violations of law relating to unfair trade practices;

revising certain provisions relating to unfair trade practices; *revising provisions relating to the crime of participating in an organized retail theft ring;* providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides additional penalties for certain crimes committed against older persons and vulnerable persons. (NRS 193.167) Section 1 of this bill provides an additional penalty for certain crimes committed against pregnant women.

Existing law provides that if a person drives under the influence of alcohol or a controlled substance and proximately causes the death of, or substantial bodily harm to, a person other than himself, the person is guilty of a category B felony which is punishable by imprisonment for a minimum term of not less than 2 years and a maximum term of not more than 20 years and a fine of not less than $2,000 but not more than $5,000. (NRS 484.3795) Section 11 of this bill provides that a person is guilty of the same offense and subject to the same penalty if the person drives under the influence of alcohol or a controlled substance and proximately causes the termination of the pregnancy of another person.

Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) Section 3 of this bill, which is patterned in part after existing securities laws, provides that a person commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions within 4 years after the completion of the first transaction by engaging in an act, practice or course of business or employing a device, scheme or artifice to defraud another person by making an untrue statement of fact or not stating a material fact necessary in light of the circumstances which: (1) the person knows to be false; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact. (NRS 90.570) Section 1 of this bill imposes an additional penalty against a person who commits the new crime established by section 3 against a person who is 60 years of age or older or a vulnerable person. (NRS 193.167) Section 8 of this bill revises the definition of a crime related to racketeering to include the new crime established by section 3. Section 10 of this bill provides that a prosecution of the new crime established by section 3 must be commenced within 4 years after the crime is committed.

Existing law establishes various crimes relating to racketeering activity. (NRS 207.400) Section 9 of this bill prohibits a person from transporting property, attempting to transport property or providing property to another person knowing that the other person intends to use the property to further racketeering activity. In addition, section 9 prohibits a person who knows that property represents proceeds of any unlawful activity to conduct or attempt to conduct any transaction involving the property with the intent to further racketeering activity or with the knowledge that the transaction

conceals the location, source, ownership or control of the property. (NRS 207.400)

~~[Section 4 of this bill provides that a person who participates in an organized retail theft ring is guilty of a category B felony, punishable by imprisonment for: (1) a minimum term of not less than 1 year and a maximum term of not more than 10 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is at least $2,500 but less than $10,000; or (2) a minimum term of not less than 2 years and a maximum term of not more than 15 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is $10,000 or more.]~~

Existing law authorizes the Attorney General to institute criminal proceedings to enforce the provisions of law regarding deceptive trade practices. (NRS 598.0963) Section ~~[11]~~ *13* of this bill provides that the Attorney General may also institute civil proceedings to enforce those provisions.

Existing law authorizes the disclosure to the Attorney General of certain information relating to criminal investigations. (NRS 598.098, 598A.080, 598A.110) Sections ~~[12,]~~ *14,* ~~[15]~~ *17* and ~~[17]~~ *19* of this bill authorize further sharing of information between the Attorney General and state and federal investigative agencies under specified conditions.

Existing law authorizes the Attorney General to institute proceedings against alleged violators of the laws concerning unfair trade practices for civil and criminal penalties. (NRS 598A.070, 598A.090) Sections ~~[14]~~ *16* and ~~[16]~~ *18* of this bill authorize the Attorney General to seek other relief, including, without limitation, restitution and disgorgement.

Existing law authorizes the Attorney General to bring a civil action for any violation of the provisions of law regarding unfair trade practices and to recover the damages sustained by the person on whose behalf the Attorney General brings the action. (NRS 598A.160) Section ~~[18]~~ *20* of this bill allows the Attorney General to recover treble the damages sustained by the person on whose behalf the Attorney General brings the action.

Section 1 of Assembly Bill No. 421 creates the crime of participating in an organized retail theft ring. Section 21 of this bill amends section 1 of Assembly Bill No. 421 to: (1) provide that a person commits the crime of participating in an organized retail theft ring only if the organized retail theft ring has committed three or more thefts in this State during a 90-day period; and (2) eliminate the references to theft of services.

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

Section 1. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;

(b) Attempted murder;
(c) Assault;
(d) Battery;
(e) Kidnapping;
(f) Robbery;
(g) Sexual assault;
(h) Embezzlement of money or property of a value of $250 or more;
(i) Obtaining money or property of a value of $250 or more by false pretenses; or
(j) Taking money or property from the person of another,

➥ against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS *or section 3 of this act* against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the criminal violation. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the criminal violation.

3. *Except as otherwise provided in NRS 193.169, any person who commits the crime of:*
(a) Murder;
(b) Attempted murder;
(c) Assault;
(d) Battery;
(e) Kidnapping;
(f) Robbery; or
(g) Sexual assault,

➥ *against a woman who is pregnant at the time the crime is committed, and who knows or reasonably should know, at the time the crime is committed, that the woman is pregnant, shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.*

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

~~[4.]~~ *5.* As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 2. Chapter 205 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. *1. A person shall not, in the course of an enterprise or occupation, knowingly and with the intent to defraud, engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that:*

(a) The person knows to be false;

(b) The person intends another to rely on; and

(c) Results in a loss to any person who relied on the false representation or omission,

➥ in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents within 4 years and in which the aggregate loss or intended loss is more than $250.

2. Each act which violates subsection 1 constitutes a separate offense.

3. A person who violates subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

Sec. 4. ~~*[1. A person who participates in an organized retail theft ring that has committed three or more thefts of retail merchandise in this State during a period of 90 days is guilty of a category B felony and shall be punished by imprisonment in the state prison for:*~~

~~*(a) If the aggregated value of the property involved in all thefts committed by the organized retail theft ring in this State during that 90-day period is at least $2,500 but less than $10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.*~~

~~*(b) If the aggregated value of the property involved in all thefts committed during that 90-day period is $10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than $20,000.*~~

~~*2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.*~~

~~*3. For the purposes of this section, in determining the aggregated value of the property involved in all thefts committed by an organized retail theft ring in this State during a period of 90 days:*~~

~~*(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property which is obtained; and*~~

~~*(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.*~~

~~*4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.*~~

~~*5. As used in this section:*~~

~~*(a) "Merchant" has the meaning ascribed to it in NRS 597.850.*~~

~~*(b) "Organized retail theft ring" means three or more persons who associate for the purpose of engaging, and one or more of whom engage, in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.*~~] *(Deleted by amendment.)*

Sec. 5. ~~[NRS 205.0821 is hereby amended to read as follows:~~

~~205.0821 As used in NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act,* unless the context otherwise requires, the words and terms defined in NRS 205.0822 to 205.0831, inclusive, have the meanings ascribed to them in those sections.~~] *(Deleted by amendment.)*

Sec. 6. ~~[NRS 205.0833 is hereby amended to read as follows:~~

~~205.0833 1. Conduct denominated theft in NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* constitutes a single offense embracing the separate offenses commonly known as larceny, receiving or possessing stolen property, embezzlement, obtaining property by false pretenses, issuing a check without sufficient money or credit, and other similar offenses.~~

~~2. A criminal charge of theft may be supported by evidence that an act was committed in any manner that constitutes theft pursuant to NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* notwithstanding the specification of a different manner in the indictment or information, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if it determines that, in a specific case, strict application of the provisions of this subsection would result in prejudice to the defense by lack of fair notice or by surprise.~~] *(Deleted by amendment.)*

Sec. 7. ~~[NRS 205.0835 is hereby amended to read as follows:~~

~~205.0835 1. Unless a greater penalty is imposed by a specific statute [,] *and unless the provisions of section 4 of this act apply under the circumstances,* a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* shall be punished pursuant to the provisions of this section.~~

~~2. If the value of the property or services involved in the theft is less than $250, the person who committed the theft is guilty of a misdemeanor.~~

~~3. If the value of the property or services involved in the theft is $250 or more but less than $2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~4. If the value of the property or services involved in the theft is $2,500 or more, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.~~

~~5. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.~~] *(Deleted by amendment.)*

Sec. 8. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484.3775;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;
14. Any violation of NRS 199.280 which is punished as a felony;
15. Burglary;
16. Grand larceny;
17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or 453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
24. Receiving, possessing or withholding stolen goods valued at $250 or more;
25. Embezzlement of money or property valued at $250 or more;

26. Obtaining possession of money or property valued at $250 or more, or obtaining a signature by means of false pretenses;

27. Perjury or subornation of perjury;

28. Offering false evidence;

29. Any violation of NRS 201.300 or 201.360;

30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;

31. Any violation of NRS 205.506, 205.920 or 205.930; ~~[or]~~

32. Any violation of NRS 202.445 or 202.446 ~~[.]~~ *; or*

33. Any violation of section 3 of this act.

Sec. 9. NRS 207.400 is hereby amended to read as follows:

207.400 1. It is unlawful for a person:

(a) Who has with criminal intent received any proceeds derived, directly or indirectly, from racketeering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of:

(1) Any title to or any right, interest or equity in real property; or

(2) Any interest in or the establishment or operation of any enterprise.

(b) Through racketeering activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(c) Who is employed by or associated with any enterprise to conduct or participate, directly or indirectly, in:

(1) The affairs of the enterprise through racketeering activity; or

(2) Racketeering activity through the affairs of the enterprise.

(d) Intentionally to organize, manage, direct, supervise or finance a criminal syndicate.

(e) Knowingly to incite or induce others to engage in violence or intimidation to promote or further the criminal objectives of the criminal syndicate.

(f) To furnish advice, assistance or direction in the conduct, financing or management of the affairs of the criminal syndicate with the intent to promote or further the criminal objectives of the syndicate.

(g) Intentionally to promote or further the criminal objectives of a criminal syndicate by inducing the commission of an act or the omission of an act by a public officer or employee which violates his official duty.

(h) *To transport property, to attempt to transport property or to provide property to another person knowing that the other person intends to use the property to further racketeering activity.*

(i) Who knows that property represents proceeds of, or is directly or indirectly derived from, any unlawful activity to conduct or attempt to conduct any transaction involving the property:

(1) With the intent to further racketeering activity; or

(2) With the knowledge that the transaction conceals the location, source, ownership or control of the property.

(j) To conspire to violate any of the provisions of this section.

2. A person who violates this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $25,000.

3. As used in this section, "unlawful activity" has the meaning ascribed to it in NRS 207.195.

Sec. 10. NRS 171.085 is hereby amended to read as follows:

171.085 Except as otherwise provided in NRS 171.083, 171.084 and 171.095, an indictment for:

1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 , ~~[or]~~ a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 *or a violation of section 3 of this act* must be found, or an information or complaint filed, within 4 years after the commission of the offense.

2. Any felony other than murder, theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 or a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 must be found, or an information or complaint filed, within 3 years after the commission of the offense.

Sec. 11. *NRS 484.3795 is hereby amended to read as follows:*

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, ~~[a]~~ *another* person ~~[other than himself,]~~ *, or proximately causes the termination of the pregnancy of another person,* is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and,

insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

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

Sec. 12. *NRS 484.3795 is hereby amended to read as follows:*

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, ~~[a]~~ *another* person ~~[other than himself,]~~ *, or proximately causes the termination of the pregnancy of another person,* is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than

$2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

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

~~[Sec. 11.]~~ *Sec. 13.* NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute *civil or* criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive. The Attorney General is not required to obtain leave of the court before instituting *civil or* criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in

the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

~~[Sec. 12.]~~ *Sec. 14.* NRS 598.098 is hereby amended to read as follows:

598.098 1. NRS 598.0903 to 598.0999, inclusive, do not prohibit the Commissioner or Director from disclosing to the Attorney General, any district attorney or any law enforcement officer the fact that a crime has been committed by any person, if this fact has become known as a result of any investigation conducted pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive.

2. Subject to the provisions of subsection 2 of NRS 598.0979 and except as otherwise provided in this section, the Commissioner or Director may not make public the name of any person alleged to have committed a deceptive trade practice. This subsection does not:

(a) Prevent the Commissioner or Director from issuing public statements describing or warning of any course of conduct which constitutes a deceptive trade practice.

(b) Apply to a person who is subject to an order issued pursuant to subsection 5 of NRS 598.0971.

3. Upon request, the Commissioner may:

(a) Disclose the number of written complaints received by the Commissioner during the current and immediately preceding 3 fiscal years. A disclosure made pursuant to this paragraph must include the disposition of the complaint disclosed.

(b) Make public any order to cease and desist issued pursuant to subsection 5 of NRS 598.0971.

➥ This subsection does not authorize the Commissioner to disclose or make public the contents of any complaint described in paragraph (a) or the record of or any other information concerning a hearing conducted in relation to the issuance of an order to cease and desist described in paragraph (b).

4. *Whenever criminal or civil intelligence, investigative information or any other information held by any state or federal agency is made available to the Attorney General on a confidential or similarly restricted basis, the Attorney General, in the course of an investigation of any violation of this chapter, may obtain and use such intelligence or information. Any such intelligence or information received retains its confidential status under the laws of this State and is exempt from the provisions of NRS 239.010.*

5. The Commissioner may adopt regulations authorizing the disclosure of information concerning any complaint or number of complaints received by the Commissioner or Director relating to a person who has been convicted of violating a provision of NRS 598.0903 to 598.0999, inclusive.

~~[Sec. 13.]~~ *Sec. 15.* NRS 598A.060 is hereby amended to read as follows:

598A.060 1. Every activity enumerated in this subsection constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity *affecting commerce* in this State:

(a) Price fixing, which consists of raising, depressing, fixing, pegging or stabilizing the price of any commodity or service, and which includes, but is not limited to:

(1) Agreements among competitors to depress prices at which they will buy essential raw material for the end product.

(2) Agreements to establish prices for commodities or services.

(3) Agreements to establish uniform discounts, or to eliminate discounts.

(4) Agreements between manufacturers to price a premium commodity a specified amount above inferior commodities.

(5) Agreements not to sell below cost.

(6) Agreements to establish uniform trade-in allowances.

(7) Establishment of uniform cost surveys.

(8) Establishment of minimum markup percentages.

(9) Establishment of single or multiple basing point systems for determining the delivered price of commodities.

(10) Agreements not to advertise prices.

(11) Agreements among competitors to fix uniform list prices as a place to start bargaining.

(12) Bid rigging, including the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among competitors, submission of identical bids, and submission of complementary bids not intended to secure acceptance by the customer.

(13) Agreements to discontinue a product, or agreements with anyone engaged in the manufacture of competitive lines to limit size, styles or quantities of items comprising the lines.

(14) Agreements to restrict volume of production.

(b) Division of markets, consisting of agreements between competitors to divide territories and to refrain from soliciting or selling in certain areas.

(c) Allocation of customers, consisting of agreements not to sell to specified customers of a competitor.

(d) Tying arrangements, consisting of contracts in which the seller or lessor conditions the sale or lease of commodities or services on the purchase or leasing of another commodity or service.

(e) Monopolization of trade or commerce in this State, including, without limitation, attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this State.

(f) Except as otherwise provided in subsection 2, consolidation, conversion, merger, acquisition of shares of stock or other equity interest, directly or indirectly, of another person engaged in commerce in this State or the acquisition of any assets of another person engaged in commerce in this State that may:

(1) Result in the monopolization of trade or commerce in this State or would further any attempt to monopolize trade or commerce in this State; or

(2) Substantially lessen competition or be in restraint of trade.

2. The provisions of paragraph (f) of subsection 1 do not:

(a) Apply to a person who, solely for an investment purpose, purchases stock or other equity interest or assets of another person if the purchaser does not use his acquisition to bring about or attempt to bring about the substantial lessening of competition in this State.

(b) Prevent a person who is engaged in commerce in this State from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.

~~[Sec. 14.]~~ *Sec. 16.* NRS 598A.070 is hereby amended to read as follows:

598A.070 1. The Attorney General shall:

(a) Enforce the provisions of this chapter.

(b) Investigate suspected violations of the provisions of this chapter.

(c) Institute proceedings on behalf of the State, its agencies, political subdivisions, districts or municipal corporations, or as parens patriae of the persons residing in the State for:

(1) Injunctive relief to prevent and restrain a violation of any provision of this chapter.

(2) Civil penalties for violations of the provisions of this chapter.

(3) Criminal penalties for violations of the provisions of this chapter.

(4) Other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

2. Any district attorney in this State, with the permission or at the direction of the Attorney General, shall institute proceedings in the name of the State of Nevada for any violation of the provisions of this chapter.

~~[Sec. 15.]~~ *Sec. 17.* NRS 598A.080 is hereby amended to read as follows:

598A.080 The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including *,* but not limited to *,* the *following:*

1. The sharing of information and evidence obtained in accordance with NRS 598A.100 ~~[.]~~ *, if the officials agree in writing to comply with the provisions of NRS 598A.110.*

2. The receipt of information and evidence by the Attorney General from the officials during an investigation of a violation of this chapter. If the information and evidence are provided on a confidential basis, that information and evidence are subject to the provisions of NRS 598A.110.

~~[Sec. 16.]~~ *Sec. 18.* NRS 598A.090 is hereby amended to read as follows:

598A.090 The district courts have jurisdiction over actions and proceedings for violations of the provisions of this chapter and may:

1. Issue temporary restraining orders and injunctions to prevent and restrain violations of the provisions of this chapter.

2. Impose civil and criminal penalties and award damages as provided in this chapter.

3. Grant mandatory injunctions reasonably necessary to eliminate practices which are unlawful under the provisions of this chapter.

4. Grant other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

~~[Sec. 17.]~~ *Sec. 19.* NRS 598A.110 is hereby amended to read as follows:

598A.110 *1.* Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS 598A.100 ~~[shall]~~ *is confidential and must* be kept confidential by the Attorney General *,* ~~[prior to the institution of an action brought under this chapter for the alleged violation of the provisions of this chapter under investigation,]~~ unless:

~~[1.]~~ *(a)* Confidentiality is waived by the person upon whom the written investigative demand is made;

~~[2.]~~ *(b)* Disclosure is authorized by the district court; ~~[or~~

~~3. Disclosure]~~

(c) Subject to the provisions of subsection 2, disclosure is made pursuant to NRS 598A.080 ~~[.]~~ *; or*

(d) Disclosure is made pursuant to an action brought under this chapter or similar federal or state law.

2. Disclosure made pursuant to NRS 598A.080 does not change the confidentiality of the information and evidence.

~~[Sec. 18.]~~ *Sec. 20.* NRS 598A.160 is hereby amended to read as follows:

598A.160 1. The Attorney General may bring a civil action for any violation of the provisions of this chapter in the name of the State of Nevada and is entitled to recover damages and secure other relief provided by the provisions of this chapter:

(a) As parens patriae of the persons residing in this State, with respect to damages sustained directly or indirectly by such persons, or, alternatively, if the court finds in its discretion that the interests of justice so require, as a representative of a class or classes consisting of persons residing in this State who have been damaged directly or indirectly; ~~[or]~~

(b) As parens patriae, with respect to direct or indirect damages to the general economy of the State of Nevada or any political subdivision thereof ~~[.]~~ *; or*

(c) On behalf of or as parens patriae, with respect to direct or indirect damages of the State, its agencies, political subdivisions, districts or municipal corporations.

2. In any action under this section, this State:

(a) May recover *treble* the aggregate damage sustained by the persons on whose behalf this State sues, without separately proving the individual claims of each such person. Proof of such damages must be based on:

(1) Statistical or sampling methods;

(2) The pro rata allocation of illegal overcharges of sales occurring within the State of Nevada; or

(3) Such other reasonable system of estimating aggregate damages as the court may permit.

(b) Shall distribute, allocate or otherwise pay the amounts so recovered in accordance with state law, or in the absence of any applicable state law, as the district court may authorize, subject to the requirement that any distribution procedure adopted afford each person on whose behalf this State sues a reasonable opportunity individually to secure the pro rata portion of such recovery attributable to his or its respective claims for damages, less litigation and administrative costs, including attorney fees, before any of the recovery is escheated.

Sec. 21. *Section 1 of Assembly Bill No. 421 of this session is hereby amended to read as follows:*

Section 1. 1. A person who participates in an organized retail theft ring *that has committed three or more thefts of retail merchandise in this State during a period of 90 days* is guilty of a category B felony and shall be punished by imprisonment in the state prison for:

(a) If the aggregated value of the property ~~[or services]~~ involved in all thefts committed by the organized retail theft ring in this State during ~~[a period of 90 days]~~ *that 90-day period* is at least $2,500 but less than $10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

(b) If the aggregated value of the property ~~[or services]~~ involved in all thefts committed by the organized retail theft ring in this State during ~~[a period of 90 days]~~ *that 90-day period* is $10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than $20,000.

2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.

3. For the purposes of this section, in determining the aggregated value of the property ~~[or services]~~ involved in all thefts committed by an organized retail theft ring in this State during a period of 90 days:

(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property ~~[or services which are]~~ *which is* obtained; and

(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.

4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized

retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.

5. As used in this section:

(a) "Merchant" has the meaning ascribed to it in NRS 597.850.

(b) "Organized retail theft ring" means three or more persons who associate for the purpose of engaging *, and one or more of whom engage,* in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.

Sec. 22. 1. This section, sections 1 to 11, inclusive, and 13 to 20, inclusive, of this act become effective on October 1, 2007.

2. Section 11 of this act expires by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

3. Section 12 of this act becomes effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

4. Section 21 of this act becomes effective on October 1, 2007, only if Assembly Bill No. 421 of this session becomes effective.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 608.

Bill read third time.

Roll call on Assembly Bill No. 608:

YEAS—21.

NAYS—None.

Assembly Bill No. 608 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 385.

Bill read third time.

Roll call on Assembly Bill No. 385:

YEAS—20.

NAYS—Carlton.

Assembly Bill No. 385 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 127.

Bill read third time.

Roll call on Assembly Bill No. 127:

YEAS—20.

NAYS—McGinness.

Assembly Bill No. 127 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 78.

The following Assembly amendment was read:

Amendment No. 768.

"SUMMARY—Revises the provisions relating to misconduct in the signing or filing of petitions. (BDR 15-770)"

"AN ACT relating to petitions; revising the provisions relating to misconduct in the signing or filing of petitions; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person is guilty of a misdemeanor if the person: (1) signs the name of another person or of a fictitious person on a petition; (2) files a petition or causes a petition to be filed knowing that the petition contains a false or wrongful signature or statement; (3) signs his name to or withdraws his name from a petition for any consideration, gratuity or reward; or (4) subscribes to any false statement concerning his age, citizenship, residence or other qualification. (NRS 205.125) This bill increases the penalty, from a misdemeanor to a category D felony, if a person: (1) signs the name of another person or of a fictitious person on a petition; or (2) files a petition or causes a petition to be filed knowing that the petition contains a false or wrongful signature or statement. This bill also prohibits a person from ~~[: (1)]~~ adding to, revising or altering a petition with the intent to falsify the name or any information concerning the age, citizenship ~~[,]~~ *or* residence ~~[or other qualifications]~~ of another person who signs the petition. ~~[; or (2) offering or providing any consideration, gratuity or reward to another person with the intent to induce the other person to sign his own name to or withdraw his own name from a petition.]~~ A person who commits one of these new crimes is guilty of a category D felony.

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

Section 1. NRS 205.125 is hereby amended to read as follows:

205.125 ~~[Every person who shall willfully sign the name of another person or of a fictitious person to or for any consideration, gratuity or reward shall sign his own name to or withdraw his name from any]~~

1. A person shall not willfully sign the name of another person, whether living or deceased, or of a fictitious person to any petition. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130. Each false or wrongful signature on a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

2. A person shall not willfully add to, revise or alter any petition with the intent to falsify the name or any information concerning the age, citizenship ~~[,]~~ or residence ~~[or other qualifications]~~ of another person who signs the petition. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130. Each addition, revision or alteration to a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

3. A person shall not willfully offer or provide any consideration, gratuity or reward to another person with the intent to induce the other person to sign his own name to or withdraw his own name from any petition. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130. Each offer or provision of consideration, gratuity or reward to another person in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

4. A person shall not, knowing that any petition contains any false or wrongful signature, statement or information, file the petition or cause the petition to be filed. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130. Each filing of a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

5. ~~[A person shall not, for any consideration, gratuity or reward, sign his own name to or withdraw his own name from any petition. A person who violates the provisions of this subsection is guilty of a misdemeanor. Each signature on or withdrawal from a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.~~

~~6.]~~ A person shall not, in signing his own name to any petition, willfully subscribe to any false statement concerning his age, citizenship, residence or other qualifications to sign the petition. A person who violates the provisions of this subsection is guilty of a misdemeanor. Each subscription to a false statement in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

~~[7.]~~ 6. As used in this section, "petition" means a referendum or other petition circulated in pursuance of any law of this State or any municipal ordinance . ~~[; or in signing his name to such petition shall willfully subscribe to any false statement concerning his age, citizenship, residence or other~~

~~qualifications to sign the same; or knowing that any such petition contains any such false or wrongful signature or statement shall file the same, or put the same off with intent that it should be filed, as a true and genuine petition, shall be guilty of a misdemeanor.]~~

Senator Cegavske moved that the Senate concur in the Assembly amendment to Senate Bill No. 78.

Remarks by Senator Cegavske.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 110.

The following Assembly amendment was read:

Amendment No. 819.

"SUMMARY—Revises provisions governing the administration of examinations to pupils enrolled in the public schools. (BDR 34-474)"

"AN ACT relating to education; revising provisions governing the administration of tests, examinations and assessments by the boards of trustees of school districts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the administration of the following examinations to pupils enrolled in the public schools: (1) examinations that are administered to a national reference group of pupils in grades 4, 7 and 10 (norm-referenced tests or NRTs); (2) examinations that assess the progress of pupils on the state standards of content and performance in grades 3 through 8 (criterion-referenced tests or CRTs); (3) the high school proficiency examination which pupils must pass to receive a standard high school diploma; and (4) examinations of the National Assessment of Educational Progress. (NRS 389.012, 389.015, 389.550) With the exception of the NRTs, the administration of these examinations is required by the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq.

Section 2 of this bill limits the district-wide tests, examinations and assessments that the board of trustees of a school district may administer between July 1, 2007, and January 1, 2009.

Section ~~[1]~~ *3* of this bill authorizes the board of trustees of each school district to require *, beginning on January 1, 2009,* the administration of ~~[additional]~~ district-wide tests, examinations and assessments that the board of trustees determines are vital to measuring pupil achievement and progress.

Section ~~[2]~~ *4* of this bill requires the ~~[Boards of Trustees of the Clark County and Washoe County School Districts to submit reports]~~ *board of trustees of each school district* to *submit a report to* the Legislative Committee on Education concerning the testing of pupils within ~~[their respective districts.]~~ *the school district during the 2006-2007 school year.*

WHEREAS, The Federal Government and the Nevada Legislature have imposed upon Nevada's public schools progressively more stringent requirements to demonstrate improved academic performance of pupils; and

WHEREAS, As a result of these requirements, the public schools in this State are required to administer an increasing number of standardized tests to pupils, including norm-referenced tests, criterion-referenced tests, proficiency tests and tests of the National Assessment of Educational Progress; and

WHEREAS, The school districts and charter schools in this State currently administer a variety of tests other than those required by state and federal law; and

WHEREAS, A recent report by the State Board of Education indicates that, in the aggregate, the task of preparing for and administering all these tests in schools throughout this State annually consumes hundreds of employee hours and costs at least $13 million; and

WHEREAS, Although there is an undeniable need for test data to evaluate the progress of Nevada's public schools and pupils in meeting the standards of academic performance, the Legislature hereby expresses that the demands for statistical information should not be allowed to unnecessarily divert the time for teachers and pupils to accomplish the work required to meet those standards; and

WHEREAS, Assembly Bill No. 484 of this Session, if enacted, requires the Legislative Committee on Education to study the issue of testing during the 2007-2009 interim, including, without limitation, the quantity and quality of tests administered in the public schools; and

WHEREAS, Pending completion of the study required by Assembly Bill No. 484 of this Session, if enacted, and potential action by the Legislature in response to the recommendations of that study, the members of the 74th Session of the Legislature hereby deem it appropriate to impose a moratorium on the administration of any test that is not mandated by state or federal law or of any test that was not adopted by a school district before July 1, 2007, now, therefore,

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in subsection 2, the board of trustees of a school district shall not administer a district-wide test, examination or assessment unless that test, examination or assessment:

(a) Is required by state or federal law; or

(b) Was adopted by the school district before July 1, 2007.

2. The provisions of this section do not apply to a test, examination or assessment that a pupil voluntarily takes without a district-wide requirement, including, without limitation, an advanced placement examination.

~~[Section 1.]~~ *Sec. 3.* ~~[Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination, the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

~~[Sec. 2.]~~ *Sec. 4.* 1. The ~~[Boards of Trustees of the Clark County School District and the Washoe County School District]~~ *board of trustees of each school district* shall prepare and submit to the Legislative Committee on Education on or before ~~[July 1, 2008, reports]~~ *March 1, 2008, a report* concerning testing of pupils within ~~[their respective school districts.]~~ *the school district during the 2006-2007 school year.*

2. The ~~[reports]~~ *report* required pursuant to subsection 1 must include:

(a) The number of hours pupils in the district spend in testing;

(b) *The number of hours that teachers and other licensed educational personnel and educational support staff employed by the school district spend in the administration of tests and other activities relating to testing;*

(c) The best practices adopted by the district with respect to using testing time efficiently in comparison with using the time for instruction; and

~~[(c)]~~ *(d)* Any recommendations for legislative changes or changes in practices with respect to the testing of pupils.

Sec. 5. In making the determination required by subsection 1 of section 3 of this act concerning tests, examinations and assessments, the board of trustees of each school district shall consider the results of the study conducted by the Legislative Committee on Education pursuant to Assembly Bill No. 484 of this Session, if enacted, and recommendations made by the Committee as a result of that study.

~~[Sec. 3.]~~ *Sec. 6.* ~~[This act becomes]~~

1. This section and sections 1, 2, 4 and 5 of this act become effective on July 1, 2007.

2. Section 3 of this act becomes effective on January 1, 2009.

3. Section 2 of this act expires by limitation on January 1, 2009.

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 110.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 132.

The following Assembly amendment was read:

Amendment No. 670.

"SUMMARY—Makes various changes concerning the liability of ~~[trailbuilding organizations and]~~ landowners, lessees and occupants of land to persons using premises for recreational activities. (BDR 3-212)"

"AN ACT relating to civil liability; ~~[revising the provisions governing the liability of landowners, lessees and occupants of land where recreational trails are located; providing that a trailbuilding organization is not liable to a person using a recreational trail under certain circumstances; requiring a person who brings a tort action related to a recreational trail to pay attorney's fees and costs if the person does not prevail in the action;]~~ revising the definition of a recreational activity for the purposes of the provision governing liability to persons using premises for a recreational activity; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill ~~[amends existing law, which generally provides that landowners, lessees and occupants of premises used for recreational activities owe no duty to keep the premises safe for such recreational activities or to warn about any hazardous condition on the premises, to provide specifically that landowners, lessees and occupants of premises where recreational trails are located owe no duty to keep the recreational trails safe or to warn about any hazardous condition. (NRS 41.510) This bill also provides that trailbuilding organizations who design, construct, maintain or improve recreational trails in accordance with generally accepted standards of safety owe no duty to keep the recreational trails safe or to warn about any hazardous condition.~~

~~Additionally, this bill provides that if a person brings a tort action arising out of the design, construction, maintenance or improvement of a recreational trail, the person is required to pay the attorney's fees and costs of any defendant if the person does not ultimately prevail in the action. Furthermore, this bill]~~ amends existing law, which includes a nonexclusive list of activities that are considered recreational activities for the purposes of the provision governing liability to persons using premises for recreational activities, to provide specifically that riding a road or mountain bicycle, cross-county skiing and snowshoeing are recreational activities. (NRS 41.510)

~~[Finally, to assist in the successful completion of the Tahoe-Pyramid Bikeway, this bill includes a preamble encouraging the entities and persons who own public and private land along the route of the Tahoe-Pyramid~~

~~Bikeway to grant necessary easements across, or access to, the land that they own along the route.]~~

~~[WHEREAS, Bicycling is a healthy recreational activity that is important to Nevada's quality of life; and~~

~~WHEREAS, Bicycling promotes the enjoyment and appreciation of the outdoor areas of Nevada; and~~

~~WHEREAS, Bicycling helps to meet the needs for outdoor recreation of an expanding population; and~~

~~WHEREAS, Recreational trails such as the Tahoe Pyramid Bikeway will allow residents to enjoy and appreciate the outdoor areas of northern Nevada while engaging in healthy recreational activity; and~~

~~WHEREAS, The Tahoe Pyramid Bikeway will follow the Truckee River from its source at Lake Tahoe to its terminus at Pyramid Lake, will descend over 2,000 feet in 116 miles and will cross a variety of public and private land spanning five counties in two states; and~~

~~WHEREAS, The public and private land along the route of the Tahoe Pyramid Bikeway is owned by various public entities, commercial entities and private persons, including the University of Nevada, Reno, railroad companies, utility companies and private landowners; and~~

~~WHEREAS, For the Tahoe Pyramid Bikeway to be completed successfully, it will be necessary to obtain easements across, and access to, such public and private land along the route; and~~

~~WHEREAS, To assist in the successful completion of the Tahoe Pyramid Bikeway, the Legislature hereby encourages the entities and persons who own public and private land along the route of the Tahoe Pyramid Bikeway to grant necessary easements across, or access to, the land that they own along the route; now, therefore,]~~

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

Section 1. NRS 41.510 is hereby amended to read as follows:

41.510 1. Except as otherwise provided in subsection 3, ~~[5,]~~ an owner of any estate or interest in any premises, or a lessee or an occupant of any premises, owes no duty to keep the premises safe for entry or use by others for participating in any recreational activity, or to give warning of any hazardous condition, activity or use of any structure on the premises to persons entering for those purposes.

2. ~~*[Except as otherwise provided in subsection 5, notwithstanding any other provision of law:*~~

~~*(a) An owner of any estate or interest in any premises upon which a recreational trail has been constructed, established through continued use, maintained or improved, or a lessee or an occupant of any premises upon which a recreational trail has been constructed, established through continued use, maintained or improved; or*~~

~~*(b) A trailbuilding organization, or any employee of, volunteer for, or other person performing services on behalf of, the trailbuilding organization,*~~

~~*that designs, constructs, maintains or improves a recreational trail in accordance with generally accepted standards of safety regarding the design, construction, maintenance and improvement of a recreational trail,*~~

~~*→ owes no duty to keep the premises or recreational trail safe for entry or use by others for participating in any recreational activity, or to give warning of any hazardous condition, activity or use of any structure on the premises or recreational trail to persons entering for those purposes.*~~

~~*3. If an action sounding in tort and arising out of the design, construction, maintenance or improvement of a recreational trail is brought against:*~~

~~*(a) An owner of any estate or interest in any premises upon which a recreational trail has been constructed, established through continued use, maintained or improved, or a lessee or an occupant of any premises upon which a recreational trail has been constructed, established through continued use, maintained or improved; or*~~

~~*(b) A trailbuilding organization, or any employee of, volunteer for, or other person performing services on behalf of, the trailbuilding organization,*~~

~~*→ the court shall award reasonable attorney's fees and costs to any person against whom the action is brought if the person who brought the action does not prevail in the action.*~~

~~*4.*~~ Except as otherwise provided in subsection 3, ~~*[5.]*~~ if an owner, lessee or occupant of premises gives permission to another person to participate in recreational activities, upon his premises:

(a) He does not thereby extend any assurance that the premises are safe for that purpose or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

(b) That person does not thereby acquire any property rights in or rights of easement to the premises.

3. ~~*[5.]*~~ This section does not:

(a) Limit the liability which would otherwise exist for:

(1) Willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity.

(2) Injury suffered in any case where permission to participate in recreational activities ~~[,]~~ was granted for a consideration other than the consideration, if any, paid to the landowner by the State or any subdivision thereof. For the purposes of this subparagraph, the price paid for a game tag sold pursuant to NRS 502.145 by an owner, lessee or manager of the premises shall not be deemed consideration given for permission to hunt on the premises.

(3) Injury caused by acts of persons to whom permission to participate in recreational activities was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

(b) Create a duty of care or ground of liability for injury to person or property.

4. ~~[6.]~~ As used in this section ,"recreational ~~[:~~

~~(a) "Recreational]~~ activity" includes, but is not limited to:

(a) ~~[(1)]~~ Hunting, fishing or trapping;

(b) ~~[(2)]~~ Camping, hiking or picnicking;

(c) ~~[(3)]~~ Sightseeing or viewing or enjoying archaeological, scenic, natural or scientific sites;

(d) ~~[(4)]~~ Hang gliding or para-gliding;

(e) ~~[(5)]~~ Spelunking;

(f) ~~[(6)]~~ Collecting rocks;

(g) ~~[(7)]~~ Participation in winter sports, including *cross-country skiing, snowshoeing or* riding a snowmobile, or water sports;

(h) ~~[(8)]~~ Riding animals ~~[or]~~ *, riding* in vehicles ~~[;]~~ *or riding a road or mountain bicycle;*

(i) ~~[(9)]~~ Studying nature;

(j) ~~[(10)]~~ Gleaning;

(k) ~~[(11)]~~ Recreational gardening; and

(l) ~~[(12)]~~ Crossing over to public land or land dedicated for public use.

~~*[(b) "Recreational trail" means any linear corridor and any adjacent support parcel on land or water providing public access for any recreational activity.*~~

~~*(c) "Trailbuilding organization" means any nonprofit corporation, association or organization whose sole mission is to design, construct, maintain or improve a recreational trail.]*~~

Sec. 2. The amendatory provisions of this act apply to a cause of action that accrues on or after October 1, 2007.

Senator Amodei moved that the Senate concur in the Assembly amendment to Senate Bill No. 132.

Remarks by Senator Amodei.

Motion carried by a constitutional majority.

Bill ordered enrolled.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 184 be taken from Unfinished Business and placed on Unfinished business on the next agenda.

Remarks by Senator Raggio.

Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 195.

The following Assembly amendment was read:

Amendment No. 787.

"SUMMARY—Enacts provisions governing the operation and use of a recreation area. (BDR 40-492)"

"AN ACT relating to recreation areas; prohibiting a person who uses a recreation area from engaging in certain conduct; requiring such a person to follow certain safety requirements; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth prohibitions, penalties and duties for a person who operates or uses a skateboard park, amusement park or snow recreation area. (Chapters 455A and 455B of NRS) Generally those laws prohibit a person from engaging in certain activities at the park or snow recreation area, prescribe duties for the owner, operator or user of the park or area and specifically state that a county, city or unincorporated town may adopt additional ordinances governing the park or area as long as the ordinances do not conflict with existing statutes. (Chapters 455A and 455B of NRS)

This bill enacts similar prohibitions, penalties and duties for a person who operates or uses a recreation area. Section 4 of this bill defines "recreation area" as a trailhead or water access area. Section 8 of this bill prohibits certain conduct by a person using a recreation area. Section 9 of this bill imposes certain duties on a person using a recreation area, such as a duty to locate and ascertain the meaning of any sign that is posted by the operator of the recreation area. Section 10 of this bill absolves the operator of a recreation area and an owner of private property from liability for the death or injury of a person or for damage to property caused or sustained by a person using the recreation area if the person *knowingly* enters an area which is outside the recreation area. Section 10 also requires an operator to provide certain information about the recreation area at trailheads and water access areas. Section 11 of this bill prohibits a person from entering or using a recreation area while intoxicated or under the influence of a controlled substance. Section 12 of this bill imposes a misdemeanor penalty against a person who fails to comply with certain reporting requirements occurring upon the person′s involvement in a collision or an accident with another person. Section 14 of this bill clarifies that the intent of the bill is not to preempt a county, city or unincorporated town from adopting additional ordinances which are consistent with this bill. Section 14 also specifies that the provisions of the bill are in addition to certain statutory and regulatory provisions relating to state parks and state recreational areas.

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

Section 1. Chapter 455B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Operator" means a government, governmental agency or political subdivision of a government that owns, controls, operates or manages a recreation area.*

Sec. 4. *"Recreation area" means a trailhead or water access area. The term does not include:*

1. A snow recreation area as defined in NRS 455A.083; or

2. A skateboard park as defined in NRS 455B.240.

Sec. 5. (Deleted by amendment.)

Sec. 6. *"Trailhead" means the beginning point of a trail, including, without limitation, any facility for parking, water or sanitation that is available for use at that point.*

Sec. 7. *"Water access area" includes, without limitation, a beach, river entry or exit point and land located at or below the ordinary high water mark of a navigable body of water within this State.*

Sec. 8. *A person shall not:*

1. Fail or refuse to comply with:

(a) Reasonable instructions provided by an operator or an authorized agent or employee of an operator regarding the use of a recreation area; or

(b) Rules concerning safety that are posted on a sign in a conspicuous place by an operator;

2. Intentionally place, drop or throw any object in the path of a user of a recreation area;

3. Conduct himself in a manner that interferes with the safe operation of a recreation area or with the safety of other users of a recreation area; or

4. Trespass on any private property located in or adjacent to a recreation area.

Sec. 9. *1. A person using a recreation area shall, to the extent possible:*

(a) Locate and ascertain:

(1) The meaning of any sign that is posted in or near the recreation area by the operator of the recreation area; and

(2) The boundaries of all private property adjoining the recreation area;

(b) Heed warnings and other information posted by the operator of the recreation area;

(c) Conduct himself in such a manner as to avoid injury to persons and damage to property in the recreation area;

(d) Familiarize himself with the natural conditions of the recreation area and any resulting dangerous conditions in the recreation area and any private property located in or adjacent to the recreation area; and

(e) Familiarize himself with any dangerous conditions relating to an irrigation system in or near the recreation area.

2. A person using a recreation area shall not tamper with or alter an irrigation system or any part of an irrigation system in the recreation area.

Sec. 10. *1. A person who enters a recreation area unlawfully shall be deemed to be a trespasser.*

2. A person who sustains a personal injury while he is using a recreation area shall notify the operator or an authorized agent or employee of the operator of the injury as soon as reasonably possible.

3. Except as otherwise provided by law, an operator or an owner of private property is not liable for the death or injury of a person or for damage to property caused or sustained by a person using a recreation area if the person knowingly enters an area which is located outside the recreation area.

4. An operator shall take reasonable steps to minimize known dangers and conditions of trailheads and water access areas within his control.

5. An operator shall post signs in conspicuous places or provide other information at trailheads and water access areas that:

(a) Identify the boundaries of the recreation area and immediately adjacent private property;

(b) Prescribe rules concerning safety, conduct and use; and

(c) Provide warnings about known dangerous conditions and potential hazards.

Sec. 11. *1. A person shall not enter or use a recreation area while intoxicated or under the influence of a controlled substance, unless in accordance with:*

(a) A prescription lawfully issued to the person; or

(b) The provisions of chapter 453A of NRS.

2. An operator or an authorized agent or employee of an operator may prohibit a person from entering or using a recreation area if he reasonably believes that the person is under the influence of alcohol, prescription drugs or a controlled substance. An operator or an authorized agent or employee of an operator is not civilly or criminally liable for prohibiting a person from entering or using a recreation area pursuant to this subsection.

Sec. 12. *1. A person using a recreation area who is involved in a collision or an accident in which another person is injured shall provide his name and current address to the injured person and the operator or an authorized agent or employee of the operator:*

(a) Before he leaves the vicinity of the collision or accident; or

(b) As soon as reasonably possible after leaving the vicinity of the collision or accident to secure aid for the injured person.

2. A person who violates a provision of this section is guilty of a misdemeanor.

Sec. 13. *An operator may revoke the license or privilege of a person to use a recreation area if the person violates any provision of sections 2 to 14, inclusive, of this act.*

Sec. 14. *The provisions of sections 2 to 14, inclusive, of this act:*

1. Do not prohibit a county, city or unincorporated town from adopting ordinances that regulate a recreation area which are consistent with the provisions of sections 2 to 14, inclusive, of this act.

2. Are in addition to any provision of chapter 407 of NRS or any regulation adopted pursuant to that chapter that is applicable to a recreation area.

Sec. 15. This act becomes effective on July 1, 2007.

Senator Amodei moved that the Senate concur in the Assembly amendment to Senate Bill No. 195.

Remarks by Senator Amodei.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 277.

The following Assembly amendment was read:

Amendment No. 689.

"SUMMARY—Authorizes the court to assign certain offenders to a program of treatment for certain offenses. (BDR 43-888)"

"AN ACT relating to traffic laws; authorizing the court to order certain offenders who plead guilty or nolo contendere to a third offense of driving under the influence of intoxicating liquor or a controlled substance to a program for the treatment of alcoholism or drug abuse; revising certain penalties for driving under the influence of intoxicating liquor or a controlled substance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows an offender who is found guilty of a first or second violation of driving under the influence of intoxicating liquor or a controlled substance to apply to the court to attend a certified program of treatment for alcoholism or drug abuse. (NRS 484.3792, 484.37937, 484.3794) Upon successful completion of the program, the court will reduce the sentence of the offender. (NRS 484.37937, 484.3794) However, no treatment option or reduced sentence is authorized for a third offense, which is a felony offense. (NRS 484.3792) This bill authorizes the court to order an offender who enters a plea of guilty or nolo contendere to a third-offense violation of driving under the influence of intoxicating liquor or a controlled substance to a program of treatment for a minimum of 3 years and to suspend ~~[the offender's sentence]~~ *further proceedings* until the program of treatment is completed. If the offender successfully completes the program of treatment, his conviction will be reduced to a second-offense violation of driving under the influence of intoxicating liquor or a controlled substance, which is a misdemeanor. ~~[Thus, for the purposes of employment, civil rights, licensing or any other public or private purpose, the conviction would be reflected as a misdemeanor.]~~ However, ~~[the conviction would stand as a prior felony conviction]~~ for the purpose of any additional penalties that may be imposed for subsequent offenses for driving under the influence of intoxicating liquor or a controlled substance ~~[.]~~ *, the offense will count as a third offense.*

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484.379 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484.3792 may, at the time he enters his plea, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 3 years if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified pursuant to chapter 641C of NRS to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources.

➥ *An alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or abuser of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.*

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately ~~[sentence the offender and enter judgment accordingly.~~

~~(b) Suspend the sentence of the offender]~~ , without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place him on probation for not more than 5 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

~~[(c)]~~ (b) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for ~~[a period not to exceed]~~ not more than 5 years and during treatment he may be confined in an institution or, at the discretion of the treatment facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a treatment facility, or if he fails to complete the treatment satisfactorily, ~~[he shall serve the sentence imposed by the court.]~~ the court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484.3792. Any sentence of imprisonment may be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily ~~[:~~

~~(I) The court shall vacate his sentence of imprisonment and reduce his conviction from a violation of paragraph (c) of subsection 1 of NRS 484.3792 to]~~ , the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484.3792.

~~[~~ ~~(II) Such a conviction shall be deemed a misdemeanor for all public purposes, except that the conviction must remain on his record of criminal history as a felony and shall be deemed a prior felony conviction for purposes of enhancement under subsection 2 of NRS 484.3792.]~~

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May ~~[immediately revoke the suspension of sentence for]~~ enter a judgment of conviction and proceed as provided in paragraph (c) of subsection 1 of NRS 484.3792 for a violation of a condition ~~[of the suspension.]~~ ordered by the court.

6. To participate in a program of treatment, the offender must ~~[meet the following conditions, including, without limitation:]~~ :

(a) ~~[The offender shall serve a minimum of]~~ Serve not less than 6 months of residential confinement ~~[pursuant to NRS 4.376 to 4.3766, inclusive;~~

~~(b) The offender shall have installed,]~~ ;

(b) Install, at his own expense, a device ~~[pursuant to NRS 484.3943 for a period of]~~ for not less than 12 months ~~[which may be extended at the discretion of the court;~~

~~(c) The offender may not]~~ ;

(c) Not drive any vehicle ~~[which is not]~~ unless it is equipped with a device ~~[pursuant to NRS 484.3943;~~

~~(d) At the discretion of the court or treatment facility, the offender may]~~ ;

(d) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) ~~[Any]~~ Agree to any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug abuse pursuant to this section if he has previously applied to receive treatment pursuant to this section or if he has previously been convicted of:

(a) A violation of NRS 484.3795;

(b) A violation of NRS 484.37955;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955;

(d) A violation of paragraph (c) of subsection 1 of NRS 484.3792;

(e) A violation of subsection 2 of NRS 484.3792; or

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

8. As used is this section ~~[, "treatment]~~ :

(a) "Device" has the meaning ascribed to it in NRS 484.3941.

(b) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 2. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. Unless a greater penalty is provided pursuant to NRS 484.3795 or 484.37955, and except as otherwise provided in subsection 2, a person who violates the provisions of NRS 484.379:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

(1) Except as otherwise provided in subparagraph (4) or subsection 7, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the Department and complete the course within the time specified in the order, and the court shall notify the Department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform not less than 48 hours, but not more than 96 hours, of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379;

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

(4) If he is found to have a concentration of alcohol of 0.18 or more in his blood or breath, order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484.3794, the court shall:

(1) Sentence him to:

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

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

(2) Fine him not less than $750 nor more than $1,000, or order him to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

(3) Order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

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

(c) ~~[~~For~~]~~ *Except as otherwise provided in section 1 of this act, for* a third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. ~~*[The court may order the offender to attend a program of treatment for the abuse of alcohol or drugs pursuant to section 1 of this act.]*~~ An offender ~~[~~so~~]~~ *who is* imprisoned *pursuant to the provisions of this paragraph* must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. Unless a greater penalty is provided in NRS 484.37955, a person who has previously been convicted of:

(a) A violation of NRS 484.379 that is punishable as a felony pursuant to paragraph (c) of subsection 1;

(b) A violation of NRS 484.3795;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; ~~[~~or~~]~~

(d) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b) or (c) ~~[~~,~~]~~ *; or*

(e) A ~~*[misdemeanor]*~~ *violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 that was reduced from a felony* ~~*[after successful completion of a program of treatment as set forth in]*~~ *pursuant to section 1 of this act,*

➥ and who violates the provisions of NRS 484.379 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

3. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. An offense which is listed in paragraphs (a) to (d), inclusive, of subsection 2 that occurred on any date preceding the date of the principal offense or after the principal offense

constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard for the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. A person convicted of violating the provisions of NRS 484.379 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and 484.3794, *and section 1 of this act,* that portion of the sentence imposed that exceeds the mandatory minimum. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

5. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 ~~*[, or section 1 of this act,]*~~ and the suspension of his sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

6. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560 or 485.330 must run consecutively.

7. If the person who violated the provisions of NRS 484.379 possesses a driver's license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) of subsection 1, the court shall:

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

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

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

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

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

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

(a) "Concentration of alcohol of 0.18 or more in his blood or breath" means 0.18 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his breath.

(b) "Offense" means:

(1) A violation of NRS 484.379 or 484.3795;

(2) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(3) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in subparagraph (1) or (2).

(c) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 3. NRS 484.37945 is hereby amended to read as follows:

484.37945 1. When a program of treatment is ordered pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792, *or section 1 of this act,* the court shall place the offender under the clinical supervision of a treatment facility for treatment ~~[for a period not to exceed 1 year,]~~ in accordance with the report submitted to the court pursuant to subsection 3, 4, 5 or 6 of NRS 484.37943 ~~[.]~~ *or section 1 of this act.* The court shall:

(a) Order the offender confined in a treatment facility, then release the offender for supervised aftercare in the community; or

(b) Release the offender for treatment in the community,

➥ for the period of supervision ordered by the court.

2. The court shall:

(a) Require the treatment facility to submit monthly progress reports on the treatment of an offender pursuant to this section; and

(b) Order the offender, to the extent of his financial resources, to pay any charges for his treatment pursuant to this section. If the offender does not have the financial resources to pay all those charges, the court shall, to the extent possible, arrange for the offender to obtain his treatment from a treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.

3. A treatment facility is not liable for any damages to person or property caused by a person who:

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct,

➥ after the treatment facility has certified to his successful completion of a program of treatment ordered pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792 ~~[.]~~ *, or section 1 of this act.*

Sec. 4. NRS 484.37947 is hereby amended to read as follows:

484.37947 The provisions of NRS 484.37943 and 484.37945 *, and section 1 of this act* do not prohibit a court from:

1. Requiring an evaluation pursuant to NRS 484.37943 to be conducted by an evaluation center that is administered by a private company if the company meets the standards of the State Board of Health pursuant to NRS 484.37935; or

2. Ordering the offender to attend a program of treatment that is administered by a private company.

Sec. 5. *NRS 484.3796 is hereby amended to read as follows:*

484.3796 1. Before sentencing an offender for a violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792 *other than an offender who has been evaluated pursuant to section 1 of this act* or a violation of NRS 484.3795 or 484.37955, the court shall require that the offender be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.

2. The evaluation must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified pursuant to chapter 641C of NRS to make such an evaluation;

(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or

(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.

3. The alcohol and drug abuse counselor, physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.

~~[Sec. 5.]~~ *Sec. 6.* This act becomes effective on July 1, 2007.

Senator Amodei moved that the Senate concur in the Assembly amendment to Senate Bill No. 277.

Remarks by Senator Amodei.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 129.

The following Assembly amendment was read:

Amendment No. 671.

"SUMMARY—Makes various changes to provisions relating to guardianships. (BDR 13-1109)"

"AN ACT relating to guardianships; extending the time in which certain information must be provided to the court for the appointment of a guardian; revising the provisions relating to the extension of temporary guardianships; revising the information that must be set forth in a petition to appoint a temporary guardian for certain wards; revising provisions relating to petitions by guardians to the court; revising provisions relating to the treatment or commitment of a ward; extending the time in which a guardian must wind up the affairs of the guardianship; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill extends the time in which information required in a petition for the appointment of a guardian must be provided to the court after the appointment of the guardian, if the information was not initially included in the petition, from 60 days to 120 days. (NRS 159.044)

Section 2 of this bill revises existing law by providing that a petition which seeks to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention may be granted by a court if the court finds reasonable cause to believe that the proposed ward is unable to respond to such harm or to a need for medical attention rather than reasonable cause to believe that the proposed ward may suffer such harm or actually needs medical attention. (NRS 159.052) Section 4 of this bill revises existing law by providing that a petition which seeks to appoint a guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss must set forth facts showing that the proposed ward is unable to respond to such risk rather than facts showing that the proposed ward actually faces such risk. (NRS 159.0525) Sections 2-4 also eliminate the restriction that a court may not extend a temporary guardianship for more than two 30-day periods, and instead ~~[allows]~~ *allow* the court to extend a temporary guardianship for not more than three successive 60-day periods. *Sections 2-4, however, prohibit the court from causing the temporary guardianship to continue longer than 7 months unless there is a showing of extraordinary circumstances.*

Existing law requires a guardian to petition the court for an order authorizing the guardian to change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. (NRS 159.078) Section 5 of this bill provides circumstances under which a guardian is not required to petition the court for an order allowing the guardian to utilize such assets.

Existing law provides that a guardian must obtain authority from the court before consenting to the commitment of a ward to a mental health facility. (NRS 159.0805) Section 6 of this bill removes the requirement that a guardian must obtain such authority to consent to the commitment of a ward to a mental health facility.

Section 7 of this bill provides that a guardian is not required to petition the court for authority before obtaining advice, instructions and approval of any proposed act of the guardian relating to the ward's property or taking any other action which the guardian deems would be in the best interests of the ward, unless otherwise ordered by the court. (NRS 159.113)

Existing law establishes the times during which a guardian is entitled to possession of the ward's property and is authorized to perform his duties to wind up the affairs of the guardianship. (NRS 159.193) Section 8 of this bill extends the time during which a guardian retains such authority after a personal representative of the estate of a deceased ward is appointed or if the guardian is awaiting certification acknowledging that he has no further tax liabilities on the ward's estate, from 90 days to 180 days.

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

Section 1. NRS 159.044 is hereby amended to read as follows:

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

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

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

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

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than ~~[60]~~ *120* days after the appointment of a guardian or as otherwise ordered by the court.

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

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

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

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

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

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

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

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

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

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

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

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

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

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

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

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this

paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

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

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

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

Sec. 2. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Facts which show that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward ~~[may suffer]~~ *is unable to respond to* a substantial and immediate risk of physical harm or ~~[needs]~~ *to a need for* immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsections 7 and 8, if the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. In addition to any other extension granted pursuant to this section, the court may extend the temporary guardianship, for good cause shown, for not more than ~~[two 30-day]~~ *three successive 60-day* periods ~~[.]~~ *, except that the court shall not cause the temporary guardianship to continue longer than 7 months unless extraordinary circumstances are shown.*

Sec. 3. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Facts which show that the proposed ward:

(1) Faces a substantial and immediate risk of physical harm or needs immediate medical attention; and

(2) Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1; and

(c) Finds that the petition required pursuant to subsection 1 is accompanied by:

(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; or

(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided

in subsections 7 and 8, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days, if:

(a) The certificate required by subsection 2 has been filed and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; or

(b) The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:

(1) The proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and

(3) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. In addition to any other extension granted pursuant to this section, the court may extend the temporary guardianship, for good cause shown, for not more than ~~[two 30-day]~~ *three successive 60-day* periods ~~[.]~~ *, except that the court shall not cause the temporary guardianship to continue longer than 7 months unless extraordinary circumstances are shown.*

Sec. 4. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Facts which show that the proposed ward ~~[:~~

~~(1) Faces]~~ *:*

(1) Is unable to respond to a substantial and immediate risk of financial loss; and

(2) Lacks capacity to respond to the risk of loss; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1; and

(c) For a proposed ward who is an adult, finds that the petition required pursuant to subsection 1 is accompanied by:

(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; or

(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsections 7 and 8, if the proposed ward is a minor and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days. Except as otherwise provided in subsection 7, if

the proposed ward is an adult, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days, if:

(a) The certificate required by subsection 2 has been filed and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; or

(b) The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:

(1) The proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and

(3) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. In addition to any other extension granted pursuant to this section, the court may extend the temporary guardianship, for good cause shown, for not more than ~~[two 30-day]~~ *three successive 60-day* periods ~~[.]~~ *, except that the court shall not cause the temporary guardianship to continue longer than 7 months unless extraordinary circumstances are shown.*

Sec. 5. NRS 159.078 is hereby amended to read as follows:

159.078 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Make or change the last will and testament of the ward.

(b) ~~[Make]~~ *Except as otherwise provided in this paragraph, make* or change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. *The guardian is not required to petition the court for an order authorizing the guardian to utilize an asset which has a designated beneficiary, including the closure or discontinuance of the asset, for the benefit of a ward if:*

(1) The asset is the only liquid asset available with which to pay for the proper care, maintenance, education and support of the ward;

(2) The asset, or the aggregate amount of all the assets if there is more than one type of asset, has a value that does not exceed $5,000; or

(3) The asset is a bank account, investment fund or insurance policy and is required to be closed or discontinued in order for the ward to qualify for a federal program of public assistance.

(c) Create for the benefit of the ward or others a revocable or irrevocable trust of the property of the estate.

(d) Except as otherwise provided in this paragraph, exercise the right of the ward to revoke or modify a revocable trust or to surrender the right to revoke or modify a revocable trust. The court shall not authorize or require the guardian to exercise the right to revoke or modify a revocable trust if the instrument governing the trust:

(1) Evidences an intent of the ward to reserve the right of revocation or modification exclusively to the ward;

(2) Provides expressly that a guardian may not revoke or modify the trust; or

(3) Otherwise evidences an intent that would be inconsistent with authorizing or requiring the guardian to exercise the right to revoke or modify the trust.

2. The court may authorize the guardian to take any action described in subsection 1 if, after notice to any person who is adversely affected by the proposed action and an opportunity for a hearing, the guardian proves by clear and convincing evidence that:

(a) A person has committed or is about to commit any act, practice or course of conduct which operates or would operate as a fraud or act of exploitation upon the ward or estate of the ward and that person:

(1) Is designated as a beneficiary in or otherwise stands to gain from an instrument which was executed by or on behalf of the ward; or

(2) Will benefit from the lack of such an instrument; and

(b) A reasonably prudent person or the ward, if competent, would take the proposed action.

3. The petition must be signed by the guardian and contain:

(a) The name, date of birth and current address of the ward;

(b) A concise statement as to the condition of the ward's estate; and

(c) A concise statement as to the necessity for the proposed action.

4. As used in this section:

(a) "Exploitation" means any act taken by a person who has the trust and confidence of a ward or any use of the power of attorney of a ward to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

(2) Convert money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of his money, assets or property.

➥ As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(b) "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive the ward of the ward's rights or property or to otherwise injure the ward.

Sec. 6. NRS 159.0805 is hereby amended to read as follows:

159.0805 1. Except as otherwise provided in subsection 2, a guardian shall not consent to:

(a) The experimental ~~[,]~~ medical, biomedical or behavioral treatment of a ward;

(b) The sterilization of a ward; *or*

(c) The participation of a ward in any biomedical or behavioral experiment . ~~[; or~~

~~(d) The commitment of a ward to a mental health facility.]~~

2. The guardian may consent to and commence any treatment ~~[,]~~ *or* experiment ~~[or commitment]~~ described in subsection 1 if the guardian applies to and obtains from the court authority to consent to and commence the treatment ~~[,]~~ *or* experiment . ~~[or commitment.]~~

3. The court may authorize the guardian to consent to and commence any treatment ~~[,]~~ *or* experiment ~~[or commitment]~~ described in subsection 1 only if the treatment ~~[,]~~ *or* experiment *:* ~~[or commitment:]~~

(a) Is of direct benefit to, and intended to preserve the life of or prevent serious impairment to the mental or physical health of, the ward; or

(b) Is intended to assist the ward to develop or regain the ward's abilities.

Sec. 7. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward ~~[.]~~ *pursuant to NRS 159.117.*

(b) Continue the business of the ward ~~[.]~~ *pursuant to NRS 159.119.*

(c) Borrow money for the ward ~~[.]~~ *pursuant to NRS 159.121.*

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward ~~[.]~~ *pursuant to NRS 159.123.*

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives ~~[.]~~ *pursuant to NRS 159.125.*

(f) Sell, lease ~~[,]~~ *or* place ~~[into any type of]~~ *in* trust ~~[or surrender]~~ any property of the ward ~~[.]~~ *pursuant to NRS 159.127.*

(g) Exchange or partition the ward's property ~~[.]~~

~~(h) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.~~

~~(i)]~~ *pursuant to NRS 159.175.*

(h) Release the power of the ward as trustee, personal representative, custodian for a minor or guardian.

~~[(j)]~~ *(i)* Exercise or release the power of the ward as a donee of a power of appointment.

~~[(k)]~~ *(j)* Change the state of residence or domicile of the ward.

~~[(l)]~~ *(k)* Exercise the right of the ward to take under or against a will.

~~[(m)]~~ *(l)* Transfer to a trust created by the ward any property unintentionally omitted from the trust.

~~[(n)]~~ *(m)* Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

~~[(o) Take any other action which the guardian deems would be in the best interests of the ward.]~~

2. *Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:*

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

~~[3.]~~ *4.* Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

~~[4.]~~ *5.* A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed *,* the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward ~~[,]~~ or ~~[to]~~ complete contracts of the ward.

Sec. 8. NRS 159.193 is hereby amended to read as follows:

159.193 1. The guardian of the estate is entitled to possession of the ward's property and is authorized to perform the duties of the guardian to wind up the affairs of the guardianship:

(a) For a period that is reasonable and necessary after the termination of the guardianship;

(b) Except as otherwise provided in paragraph (c), for not more than ~~[90]~~ *180* days after the date of the appointment of a personal representative of the estate of a deceased ward; or

(c) Upon approval of the court, for more than ~~[90]~~ *180* days if the guardian is awaiting certification from the appropriate authority acknowledging that the guardian has no further liability for taxes on the estate.

2. To wind up the affairs of the guardianship, the guardian shall:

(a) Pay all expenses of administration of the guardianship estate, including those incurred in winding up the affairs of the guardianship.

(b) Complete the performance of any contractual obligations incurred by the guardianship estate.

(c) With prior approval of the court, continue any activity that:

(1) The guardian believes is appropriate and necessary; or

(2) Was commenced before the termination of the guardianship.

(d) If the guardianship is terminated for a reason other than the death of the ward, examine and allow and pay, or reject, all claims presented to the guardian prior to the termination of the guardianship for obligations incurred prior to the termination.

Sec. 9. This act becomes effective on July 1, 2007.

Senator Amodei moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 129.

Remarks by Senator Care.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Heck, Coffin and Cegavske as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 115.

President Krolicki appointed Senators Townsend, Washington and Mathews as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 154.

Senator Raggio moved that the Senate recess until 8:30 p.m.

Motion carried.

Senate in recess at 7:46 p.m.

SENATE IN SESSION

At 9:01 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Amodei moved that Assembly Bill No. 70 be taken from the Secretary's desk and placed on the General File.

Remarks by Senator Amodei.

Motion carried on a division of the house.

Senator Townsend moved that Assembly Bill No. 178, be taken from the General File on the last agenda and placed on the bottom of the General File on this agenda.

Remarks by Senator Townsend.
Motion carried.

Senator Townsend moved that Assembly Bill No. 375, be taken from the General File on the last agenda and placed on the bottom of the General File on this agenda.
Remarks by Senator Townsend.
Motion carried.

Senator Townsend moved that Assembly Bill No. 526 be taken from the General File on the last agenda and placed on the bottom of the General File on this agenda.
Remarks by Senator Townsend.
Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 335.
Bill read second time.
The following amendment was proposed by the Committee on Legislative Operations and Elections:
Amendment No. 1014.
"SUMMARY—Makes various changes ~~[related]~~ *relating* to public office. (BDR ~~[24-1195)"]~~ *17-1195)*
"AN ACT relating to public office; ~~[prescribing the period during which elected and certain appointed public officers may solicit and accept campaign contributions; requiring the Secretary of State to design a single form to be used for all statements of financial disclosure and reports of campaign contributions and expenditures; requiring that certain reports concerning elections, campaign finance and the financial disclosure of public officers be made available to the public on the Internet;]~~ amending the definition of "gift"; requiring governing bodies of local governments to regulate the activities of lobbyists in their jurisdictions; ~~[requiring that statements of financial disclosure be submitted to filing officers and made available to the public; providing a civil penalty;]~~ and providing other matters properly relating thereto."
Legislative Counsel′5 Digest:
~~[~~ ~~Section 2 of this bill prohibits an elected public officer, or a public officer appointed to fill the unexpired term of an elected public officer, from soliciting or accepting a campaign contribution except during the period beginning 12 months before the date of each general election and ending 3 months after the date of each general election. Section 1 of this bill does not apply to Legislators, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect.~~

~~Existing law requires the Commission on Ethics to design the form used for statements of financial disclosure that are required to be submitted by public officers pursuant to NRS 281.559 and 281.561. (NRS 281.471)~~

~~Existing law also requires public officers to submit statements of financial disclosure to the Commission on Ethics. (NRS 281.559, 281.561) Section 6 of this bill requires the Secretary of State to design a single form to be used for all statements of financial disclosure and all campaign expenditure and contribution reports. Such form must be available on the Secretary of State's Internet website. Sections 26 and 27 of this bill require certain public officers and candidates for public office to submit statements of financial disclosure to filing officers. Sections 1, 3-8, 26 and 27 of this bill also require various forms concerning elections, campaign finance and financial disclosure, and the information contained in those completed forms, to be available on the Internet website of the Secretary of State. Section 17 of this bill defines "filing officer" as the Secretary of State, county or city clerk or any other officer authorized by law to receive designations and declarations of candidacy, certificates and acceptances of nominations or any other nomination papers.]~~

Sections 10 and ~~[18]~~ *16* of this bill provide that costs and expenses associated with the attendance at an event relating to public office or at an event ~~[that benefits an organization that is exempt from the provisions of section 501(c) of the Internal Revenue Code]~~ *to which multiple public officers and others are invited* is not a "gift" for purposes of lobbying and the code of ethical standards for public officers and employees.

Sections 11 and 13 of this bill require the governing bodies of certain local governments to regulate the activities of lobbyists who lobby elected officers or certain appointed officers of those local governments.

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

Section 1. ~~[NRS 293.4687 is hereby amended to read as follows:~~

~~293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:~~

~~(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;~~

~~(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and~~

~~(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, *294A.128,* 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362.~~

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

~~3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the~~

~~Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.]~~ *(Deleted by amendment.)*

Sec. 2. ~~[Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. It is unlawful for an elected public officer or a public officer appointed to fill the unexpired term of an elected public officer to solicit or accept any contribution, or solicit or accept a commitment to make such a contribution, except during the period:*~~

~~*(a) Beginning 12 months before the date of each general election; and*~~

~~*(b) Ending 3 months after the date of each general election.*~~

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

~~*(a) "General election" means:*~~

~~*(1) If the elected public officer or public officer appointed to fill the unexpired term of an elected public officer is a city official, the general city election held pursuant to NRS 293C.140.*~~

~~*(2) If the elected public officer or public officer appointed to fill the unexpired term of an elected public officer is not a city official, the general election held pursuant to NRS 293.12755.*~~

~~*(b) "Public officer":*~~

~~*(1) Except as otherwise provided in subparagraph (2), means a person elected or appointed to a position which:*~~

~~*(I) Is established by the Constitution or a statute of this State, or by a charter or ordinance of a political subdivision of this State; and*~~

~~*(II) Involves the continuous exercise, as part of the regular and permanent administration of the government, of a public power, trust or duty.*~~

~~*(2) Does not include any person who is subject to the provisions of NRS 294A.300.]*~~ *(Deleted by amendment.)*

Sec. 3. ~~[NRS 294A.128 is hereby amended to read as follows:~~

~~294A.128 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:~~

~~(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;~~

~~(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and~~

~~(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.~~

~~2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.~~

~~3. The reports required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.~~

~~4. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.~~

~~*5. Within a reasonable time after the Secretary of State receives a report or copy of a report pursuant to this section, the Secretary of State shall post the report on his Internet website.]*~~ *(Deleted by amendment.)*

Sec. 4. ~~[NRS 294A.230 is hereby amended to read as follows:~~

~~294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by him.~~

~~2. The form must require:~~

~~(a) The name of the committee;~~

~~(b) The purpose for which it was organized;~~

~~(c) The names, addresses and telephone numbers of its officers;~~

~~(d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;~~

~~(e) The name, address and telephone number of its resident agent; and~~

~~(f) Any other information deemed necessary by the Secretary of State.~~

~~3. A committee for political action shall file with the Secretary of State an amended form for registration within 30 days after any change in the information contained in the form for registration.~~

~~4. The Secretary of State shall include on his Internet website~~ [the]~~:~~

~~*(a) The*~~ information required pursuant to subsection 2 ~~—~~[.]~~ *within a reasonable time after he receives the information; and*~~

~~*(b) The form for registering a committee for political action.]*~~ *(Deleted by amendment.)*

Sec. 5. ~~[NRS 294A.250 is hereby amended to read as follows:~~

~~294A.250 *1.* Each committee for the recall of a public officer shall register with the Secretary of State, on a form provided by him. Each form must include:~~

~~[1.] *(a)* The name of the committee;~~

~~[2.] *(b)* The purpose for which it was organized;~~

~~[3.] *(c)* The names and addresses of its officers; and~~

~~[4.] *(d)* If the committee is organized and located outside this State, the name and address of its resident agent.~~

~~*2. The Secretary of State shall include on his Internet website the form for registering a committee for the recall of a public officer and, within a*~~

~~*reasonable time after receiving the information, the information required to be included on the form by each committee for the recall of a public officer pursuant to subsection 1.]*~~ *(Deleted by amendment.)*

Sec. 6. ~~[NRS 294A.373 is hereby amended to read as follows:~~

~~294A.373 1. The Secretary of State shall design a single form to be used for all~~ [reports] ~~:~~

~~*(a) Reports* of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362~~ [.] ~~*; and*~~

~~*(b) Financial disclosure statements that are required to be filed pursuant to NRS 281.559 and 281.561.*~~

~~2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.~~

~~3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report *or statement* described in subsection 1. *The Secretary of State shall also make the form designed pursuant to this section available on his Internet website.*~~

~~4. The Secretary of State must obtain the advice and consent of the Legislative Commission before~~ [providing] ~~:~~

~~*(a) Providing* a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form~~ [.] ~~*; and*~~

~~*(b) Making the form designed or revised by the Secretary of State pursuant to this section available on his Internet website.]~~* *(Deleted by amendment.)*

Sec. 7. ~~[NRS 294A.380 is hereby amended to read as follows:~~

~~294A.380 1. The Secretary of State may adopt and promulgate regulations, prescribe forms in accordance with the provisions of this chapter and take such other actions as are necessary for the implementation and effective administration of the provisions of this chapter.~~

~~2. For the purposes of implementing and administering the provisions of this chapter regulating committees for political action:~~

~~(a) The Secretary of State shall, in determining whether an entity or group is a committee for political action, consider a group's or entity's division or separation into units, sections or smaller groups only if it appears that such division or separation was for a purpose other than for avoiding the reporting requirements of this chapter.~~

~~(b) The Secretary of State shall, in determining whether an entity or group is a committee for political action, disregard any action taken by a group or entity that would otherwise constitute a committee for political action if it appears such action is taken for the purpose of avoiding the reporting requirements of this chapter.~~

~~*3. The Secretary of State shall:*~~

~~*(a) Make available on his Internet website any form he prescribes pursuant to subsection 1; and*~~

~~*(b) Within a reasonable time after he receives any such completed form, post the completed form on his Internet website.*~~] *(Deleted by amendment.)*

Sec. 8. [~~NRS 294A.400 is hereby amended to read as follows:~~

~~294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, prepare and make available for public inspection *, including, without limitation, on his Internet website,* a compilation of:~~

~~1. The total campaign contributions, the contributions which are in excess of $100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.~~

~~2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.~~

~~3. The contributions made to a committee for the recall of a public officer in excess of $100.~~

~~4. The expenditures exceeding $100 made by a:~~

~~(a) Person on behalf of a candidate other than himself.~~

~~(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.~~

~~(c) Group of persons advocating the election or defeat of a candidate.~~

~~(d) Committee for the recall of a public officer.~~

~~5. The contributions in excess of $100 made to:~~

~~(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.~~

~~(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.~~

~~(c) A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.~~] *(Deleted by amendment.)*

Sec. 9. [~~NRS 294A.420 is hereby amended to read as follows:~~

~~294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.~~

~~2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 *or section 1 of this act* is subject to a civil penalty of not more than $5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.~~

~~3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:~~

~~(a) If the report is not more than 7 days late, $25 for each day the report is late.~~

~~(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.~~

~~(c) If the report is more than 15 days late, $100 for each day the report is late.~~

~~The~~ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

~~4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:~~

~~(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and~~

~~(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.~~] *(Deleted by amendment.)*

Sec. 10. NRS 218.908 is hereby amended to read as follows:

218.908 1. "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.

2. "Gift" does not include ~~[a]~~ *:*

(a) A political contribution of money or services related to a political campaign ~~[, a]~~ *;*

(b) A ~~[commercially reasonable]~~ loan *or other transaction* made in the ordinary course of business ~~[,]~~ *;*

(c) The cost of entertainment, including the ~~*f.*~~

~~*(c) The]*~~ cost of food or beverages ~~[, or anything]~~ ~~[.]~~ *or the costs and expenses associated with the attendance of a member of the Legislative*

Branch, or the spouse or guest of such a member of the Legislative Branch, at an event to which multiple members of the Legislative Branch and others are invited;

(d) Anything of value received from a member of the recipient′5555555555e family or from a relative of the recipient or his spouse ~~[within the]~~ ~~[third]~~ ~~*[fifth* degree of consanguinity.]~~ or from the spouse of any such relative *; or*

(e) ~~*[Costs and expenses associated with the attendance of a member of the Legislative Branch, or the spouse or guest of such a member of the Legislative Branch, at an event relating to public office or at an event that benefits an organization which the Secretary of the Treasury has determined is an exempt organization pursuant to the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).]*~~ *Anything of value received from a person with whom the recipient has an existing business or professional relationship.*

Sec. 11. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each board of county commissioners shall enact ordinances that regulate the activities of lobbyists who lobby:

(a) Elected officers of the county; or

(b) Appointed officers of the county who the board of county commissioners has determined have policymaking authority.

2. The ordinances required pursuant to subsection 1 must set forth:

(a) Registration and reporting requirements for such lobbyists and provide that reports submitted by lobbyists are open to public inspection.

(b) Standards for elected and appointed officers of the county relating to the acceptance and disclosure of contributions from persons who have a personal interest in a matter before the elected or appointed officer.

Sec. 12. NRS 245.110 is hereby amended to read as follows:

245.110 The provisions of the Nevada Ethics in Government Law *,* ~~[(]~~ NRS 281.411 to 281.581, inclusive ~~[)]~~ *, and* ~~*[sections 17 and 18]*~~ *section 16 of this act* do not prohibit any county officer from purchasing the warrants of the State or of any other county, or to prevent any county officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

Sec. 13. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each city council shall adopt ordinances that regulate the activities of lobbyists who lobby:

(a) Elected officers of the city; or

(b) Appointed officers of the city whom the city council has determined have policymaking authority.

2. The ordinances required pursuant to subsection 1 must set forth:

(a) Registration and reporting requirements for such lobbyists and provide that reports submitted by lobbyists are open to public inspection.

(b) Standards for elected and appointed officers of the city relating to the acceptance and disclosure of contributions from persons who have a personal interest in a matter before the elected or appointed officer.

Sec. 14. NRS 268.380 is hereby amended to read as follows:

268.380 The provisions of the Nevada Ethics in Government Law *,* ~~[(]~~ NRS 281.411 to 281.581, inclusive ~~[)]~~ *, and* ~~*[sections 17 and 18]*~~ *section 16 of this act* do not prohibit any city officer from purchasing the warrants of the State or of any other city or county, or prevent any city officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

Sec. 15. NRS 269.070 is hereby amended to read as follows:

269.070 The provisions of the Nevada Ethics in Government Law *,* ~~[(]~~ NRS 281.411 to 281.581, inclusive ~~[)]~~ *, and* ~~*[sections 17 and 18]*~~ *section 16 of this act* do not prohibit any town officer from purchasing the warrants of the State or of any other city, town or county, or prevent any town officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

Sec. 16. Chapter 281 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 17 and 18 of this act.]~~ *a new section to read as follows:*

1. "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.

2. "Gift" does not include:

(a) A political contribution of money or services related to a political campaign;

(b) A loan or other transaction made in the ordinary course of business;

(c) The cost of entertainment, including the cost of food or beverages or the costs and expenses associated with the attendance of a public officer, or the spouse or guest of such a public officer, at an event to which multiple public officers and others are invited;

(d) Anything of value received from a member of the recipient's immediate family or from a relative of the recipient or his spouse or from the spouse of any such relative; or

(e) Anything of value received from a person with whom the recipient has an existing business or professional relationship.

Sec. 17. ~~*[*"Filing officer" means the Secretary of State, county or city clerk or any other officer authorized by law to receive designations and declarations of candidacy, certificates and acceptances of nomination or any other nomination papers.]*~~ *(Deleted by amendment.)*

Sec. 18. ~~*[1. "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.*~~

~~*2. "Gift" does not include:*~~

~~*(a) A political contribution of money or services related to a political campaign;*~~

~~*(b) A commercially reasonable loan made in the ordinary course of business;*~~

~~*(c)*~~

~~*The cost of food or beverages;*~~

~~*(d) Anything of value received from a member of the recipient's immediate family or from a relative of the recipient or his spouse within the fifth degree of consanguinity or from the spouse of any such relative; or*~~

~~*(e) Costs and expenses associated with the attendance of a public officer, or the spouse or guest of a public officer, at an event relating to public office or at an event that benefits an organization which the Secretary of the Treasury has determined is an exempt organization pursuant to the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).]*~~ *(Deleted by amendment.)*

Sec. 19. NRS 281.005 is hereby amended to read as follows:

281.005 As used in this chapter:

1. Except as limited for the purposes of NRS 281.411 to 281.581, inclusive, *and* ~~*[sections 17 and 18]*~~ *section 16 of this act,* "public officer" means a person elected or appointed to a position which:

(a) Is established by the Constitution or a statute of this State, or by a charter or ordinance of a political subdivision of this State; and

(b) Involves the continuous exercise, as part of the regular and permanent administration of the government, of a public power, trust or duty.

2. "Special use vehicle" means any vehicle designed or used for the transportation of persons or property off paved highways.

Sec. 20. NRS 281.411 is hereby amended to read as follows:

281.411 NRS 281.411 to 281.581, inclusive, *and* ~~*[sections 17 and 18]*~~ *section 16 of this act* may be cited as the Nevada Ethics in Government Law.

Sec. 21. NRS 281.431 is hereby amended to read as follows:

281.431 As used in NRS 281.411 to 281.581, inclusive, *and* ~~*[sections 17 and 18]*~~ *section 16 of this act,* unless the context otherwise requires, the words and terms defined in NRS 281.432 to 281.4375, inclusive, *and* ~~*[sections 17 and 18]*~~ *section 16 of this act* have the meanings ascribed to them in those sections.

Sec. 22. NRS 281.4647 is hereby amended to read as follows:

281.4647 1. Each county whose population is more than 10,000 and each city whose population is more than 10,000 and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to NRS 281.411 to 281.581, inclusive ~~[.]~~ *, and* ~~*[sections 17 and 18]*~~ *section 16 of this act.* The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and

county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out NRS 281.411 to 281.581, inclusive, *and ~~[sections 17 and 18]~~ section 16 of this act* and only to the extent authorized for expenditure by the Legislature; and

(c) Does not revert to the State General Fund at the end of any fiscal year.

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, he shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

Sec. 23. ~~[NRS 281.481 is hereby amended to read as follows:~~

~~281.481 A code of ethical standards is hereby established to govern the conduct of public officers and employees:~~

~~1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend [improperly] to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.~~

~~2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant~~

~~pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:~~

~~(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281.501.~~

~~(b) "Unwarranted" means without justification or adequate reason.~~

~~3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.~~

~~4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.~~

~~5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.~~

~~6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.~~

~~7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:~~

~~(a) A limited use of governmental property, equipment or other facility for personal purposes if:~~

~~(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;~~

~~(2) The use does not interfere with the performance of his public duties;~~

~~(3) The cost or value related to the use is nominal; and~~

~~(4) The use does not create the appearance of impropriety;~~

~~(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or~~

~~(c) The use of telephones or other means of communication if there is not a special charge for that use.~~

~~➡ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.~~

~~8. A member of the Legislature shall not:~~

~~(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person. This paragraph does not prohibit:~~

~~(1) A limited use of state property and resources for personal purposes if:~~

~~(I) The use does not interfere with the performance of his public duties;~~

~~(II) The cost or value related to the use is nominal; and~~

~~(III) The use does not create the appearance of impropriety;~~

~~(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or~~

~~(3) The use of telephones or other means of communication if there is not a special charge for that use.~~

~~(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:~~

~~(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the Legislator or legislative employee to perform his official duties; or~~

~~(2) Where such service has otherwise been established as legislative policy.~~

~~9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.~~

~~10. A public officer or employee shall not seek other employment or contracts through the use of his official position.~~] *(Deleted by amendment.)*

Sec. 24. ~~[NRS 281.541 is hereby amended to read as follows:~~

~~281.541 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:~~

~~(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.~~

~~(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of his own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission.~~

~~[(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:~~

~~(1) Submitted, at least 60 days before its anticipated distribution, to the Commission for review; and~~

~~(2) Upon review, approved by the Commission.]~~

~~2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.~~

~~3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:~~

~~(a) The public officer or employee acts in contravention of the opinion; or~~

~~(b) The requester discloses the content of the opinion.]~~ *(Deleted by amendment.)*

Sec. 25. ~~[NRS 281.552 is hereby amended to read as follows:~~

~~281.552 1. Every public officer shall acknowledge that he has received, read and understands the statutory ethical standards. The acknowledgment must be on a form prescribed by the Commission and must accompany the first statement of financial disclosure that the public officer is required to file with the [Commission] *filing officer* pursuant to NRS 281.559 or [the Secretary of State pursuant to NRS] 281.561.~~

~~2. The [Commission and the Secretary of State] *filing officer* shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.~~

~~3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.]~~ *(Deleted by amendment.)*

Sec. 26. ~~[NRS 281.559 is hereby amended to read as follows:~~

~~281.559 1. Except as otherwise provided in subsection 2, if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of $6,000 or more for serving in that office, he shall file with the [Commission] *filing officer* a statement of financial disclosure, as follows:~~

~~(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.~~

~~(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.~~

~~2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.~~

~~3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.~~

~~4. [The Commission] *Filing officers other than the Secretary of State* shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by~~

~~subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:~~

~~(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;~~

~~(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;~~

~~(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and~~

~~(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.~~

~~5. In addition to the notice provided pursuant to subsection 4, the [Commission]~~ *filing officer* ~~shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.~~

~~6. A statement of financial disclosure shall be deemed to be filed with the [Commission:]~~ *filing officer:*

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the [Commission]~~ *filing officer* ~~if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~*7. The filing officer shall:*~~

~~*(a) Maintain files of statements of financial disclosure filed pursuant to this section and make the statements available for public inspection; and*~~

~~*(b) Submit a copy of each statement of financial disclosure filed pursuant to this section to the Secretary of State within 10 working days after receiving it.*~~

~~*8. Within a reasonable time after the Secretary of State receives a statement of financial disclosure or a copy of a statement of financial disclosure pursuant to this section, the Secretary of State shall post the statement of financial disclosure on his Internet website.*~~

~~*9. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section.]~~ *(Deleted by amendment.)*

Sec. 27. ~~[NRS 281.561 is hereby amended to read as follows:~~

~~281.561 1. Each candidate for public office who will be entitled to receive annual compensation of $6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection 2, each public officer who was elected to the office for which he is serving shall file with~~

~~the [Secretary of State] *filing officer* a statement of financial disclosure, as follows:~~

~~(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office; and~~

~~(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.~~

~~2. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.~~

~~3. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.~~

~~4. A statement of financial disclosure shall be deemed to be filed with the [Secretary of State:] *filing officer:*~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the [Secretary of State] *filing officer* if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~5. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the [Commission] *Secretary of State* pursuant to NRS [281.471.] *2944.373.*~~

~~6. *The filing officer shall:*~~

~~*(a) Maintain files of statements of financial disclosure filed pursuant to this section and make the statements available for public inspection; and*~~

~~*(b) Submit a copy of each statement of financial disclosure filed pursuant to this section to the Secretary of State within 10 working days after receiving it.*~~

~~*7. Within a reasonable time after the Secretary of State receives a statement of financial disclosure or a copy of a statement of financial disclosure pursuant to this section, the Secretary of State shall post the statement of financial disclosure on his Internet website.*~~

~~8. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section . [, maintain files of such statements and make the statements available for public inspection.]~~ *(Deleted by amendment.)*

Sec. 28. ~~[NRS 281.571 is hereby amended to read as follows:~~

~~281.571 1. Statements of financial disclosure, [as approved pursuant to NRS 281.541 or] in such form as the [Commission otherwise prescribes,] *Secretary of State prescribes pursuant to NRS 2944.373,* must contain the following information concerning the candidate for public office or public officer:~~

~~(a) His length of residence in the State of Nevada and the district in which he is registered to vote.~~

~~(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but , if that is the case, a general source such as "professional services" must be disclosed.~~

~~(c) A list of the specific location and particular use of real estate, other than a personal residence:~~

~~(1) In which he or a member of his household has a legal or beneficial interest;~~

~~(2) Whose fair market value is $2,500 or more; and~~

~~(3) That is located in this State or an adjacent state.~~

~~(d) The name of each creditor to whom he or a member of his household owes $5,000 or more, except for:~~

~~(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and~~

~~(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.~~

~~(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of $200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:~~

~~(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.~~

~~(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.~~

~~(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.~~

~~(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.~~

~~2. The [Commission]~~ *filing officer* ~~shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The [Commission]~~ *filing officer* ~~is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed by the Secretary of State~~ pursuant to ~~[subsection 1 of NRS 281.541.]~~ *NRS 294A.373.*

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

~~(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.~~

~~(b) "Household" includes:~~

~~(1) The spouse of a candidate for public office or public officer;~~

~~(2) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and~~

~~(3) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.]~~ *(Deleted by amendment.)*

Sec. 29. ~~[NRS 281.573 is hereby amended to read as follows:~~

~~281.573 1.~~ ~~Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281.559~~ [,] ~~and~~ ~~281.561~~ [and 281.571] ~~must be retained by the~~ [Commission or Secretary of State] *filing officer* ~~for 6 years after the date of filing.~~

~~2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.]~~ *(Deleted by amendment.)*

Sec. 30. ~~[NRS 281.574 is hereby amended to read as follows:~~

~~281.574 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the~~ [Commission and to the Secretary of State,] ~~filing officer,~~ ~~in a form prescribed by the~~ [Commission,] ~~Secretary of State,~~ ~~on or before December 1 of each year by:~~

~~(a)~~ [Each county clerk for all public officers of the county and other local governments within the county other than cities;

~~(b) Each city clerk for all public officers of the city;~~

~~(c)~~] ~~The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and~~

[(d)] ~~(b) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.~~

~~2.~~ [The Secretary of State, each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Commission, and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk] ~~Each filing officer other than the Secretary of State~~ shall submit electronically to the Secretary of State, in a form prescribed by the [Commission,] ~~Secretary of State,~~ a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that *filing* officer within 10 days after the last day to qualify as a candidate for the applicable office.] *(Deleted by amendment.)*

Sec. 31. ~~[NRS 281.575 is hereby amended to read as follows:~~

~~281.575 [The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk] *Each filing officer* who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate the form prescribed by the [Commission] *Secretary of State pursuant to NRS 294A.373* for the making of a statement of financial disclosure, accompanied by instructions on how to complete the form, where it must be filed and the time by which it must be filed.]~~ *(Deleted by amendment.)*

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske, Titus and Raggio.

Senator Raggio requested that his remarks be entered in the Journal.

Thank you, Mr. President. We discussed this issue at length in the Committee on Legislative Operations and Elections. The way the definition of "gift" came to us would have been a minefield for everyone in this Legislature. This amended legislation was carefully crafted because it covers things such as being invited to the opening of a facility of some kind, like a hotel. As long as you are part of a group being invited, we felt that was a legitimate attendance on the part of a Legislator and not a "gift" when invited along with other people.

An existing business or professional relationship would cover, for example; a Legislator who receives a gift from a partner in his law firm, a doctor may get a gift from someone in his office. This is what it is intended to cover, not anything otherwise suggested. That is the purpose of this definition of what would not constitute a "gift."

We are all trying to do what is appropriate to remove the perception of conflicts. Every member of this body is a part-time Legislator with another life besides what goes on here. There used to be a limited period of consanguinity in the bill, the way it came over to us. This is a correct change where you can at least receive gifts from your family members or your spouse and his or her family. That is the reason for this measure. I believe the definition is essential to make certain no one falls into some kind of an ethics trap because he or she happens to get a gift from a law partner or someone he or she is in business or has a professional relationship with.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 296.

Bill read third time.

Roll call on Assembly Bill No. 296:

YEAS—21.

NAYS—None.

Assembly Bill No. 296 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 354.

Bill read third time.

Roll call on Assembly Bill No. 354:

YEAS—21.

NAYS—None.

Assembly Bill No. 354 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 364.

Bill read third time.

Roll call on Assembly Bill No. 364:

YEAS—11.

NAYS—Amodei, Beers, Cegavske, Hardy, Heck, McGinness, Raggio, Rhoads, Townsend, Washington—10.

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 428.

Bill read third time.

Roll call on Assembly Bill No. 428:

YEAS—21.

NAYS—None.

Assembly Bill No. 428 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 513.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 1030.

"SUMMARY—Revises provisions relating to ~~[general improvement districts.]~~ *local governmental administration.* (BDR 25-1380)"

"AN ACT relating to ~~[general improvement districts;]~~ *local governmental administration;* requiring the creation of certain general improvement districts in certain counties within the sphere of influence of certain cities; *revising provisions governing city annexation commissions; requiring notification of certain persons and governmental entities in certain counties of proposed voluntary annexations and allowing such persons and entities to file written opposition to the annexation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes each board of county commissioners to create general improvement districts within the county. (Chapter 318 of NRS) This bill requires the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to create one such district of at least 5,000 acres within the sphere of influence of a city whose population is 100,000 or more (currently Reno) and one such district of at least 2,000 acres within the sphere of influence of a

city whose population is 60,000 or more but less than 100,000 (currently Sparks).

Section 2 of this bill provides the prerequisites for creating such a general improvement district. Section 3 of this bill provides for the governing body of the city in whose sphere of influence the district is located to initially serve as the board of trustees of the district. After establishing a budget and certain accounting, auditing and management standards for the district and upon the district containing at least two qualified electors, the governing body of the city is required to appoint five members to serve as the board of trustees. After the initial terms of these appointed members, the board of trustees will consist of two members elected by the qualified electors of the district and three members appointed by the governing body of the city.

Section 4 of this bill provides a procedure for adding basic powers to the general improvement district that were not provided in its formation and authorizes territory contiguous to the district to be added to the district. Section 5 of this bill provides for the merger of the general improvement district with the city within whose sphere of influence the district is located when all the territory of the district has been annexed by the city.

Under existing law, in a county whose population is less than 400,000 (currently counties other than Clark County), the governing body of a city may conduct a voluntary annexation with respect to contiguous territory owned in fee by the city, or other contiguous territory if 100 percent of the owners of record of the real property within the territory petition the governing body to annex that territory. (NRS 268.670) Section 44 of this bill requires that before the governing body in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) conducts such a voluntary annexation with respect to territory that is not within the city's sphere of influence, the governing body must give notice to: (1) the board of county commissioners; (2) each owner of real property in the unincorporated area that is within 750 feet outside the boundaries of the territory proposed to be annexed; and (3) the owners of each of the 30 separately owned parcels in the unincorporated area outside the boundaries of the territory proposed to be annexed, which parcels are nearest the territory proposed to be annexed, to the extent that such owners are not already given notice by virtue of being within 750 feet of the boundaries of the territory proposed to be annexed. Pursuant to section 44, such an owner of real property or the board of county commissioners may file with the governing body a written opposition to the voluntary annexation, which must be considered at the proceedings by the governing body on the proposed annexation.

Under existing law, in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), a city annexation commission is required to be created. The governing bodies of the county and each city in the county are authorized to execute an interlocal agreement to transfer the duties of the city annexation commission to the regional planning

commission. (NRS 268.626) If such an interlocal agreement is executed, section 42 of this bill requires the chairman of the regional planning commission to appoint to the regional planning commission a member to represent the general public for the limited purposes of the regional planning commission performing duties relating to annexation that would otherwise be carried out by a city annexation commission.

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

Section 1. Chapter 318 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *1. Subject to the provisions of subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 shall create:*

(a) Within the sphere of influence of an incorporated city in the county whose population is 100,000 or more, one district comprising at least 5,000 acres; and

(b) Within the sphere of influence of an incorporated city in the county whose population is 60,000 or more but less than 100,000, one district comprising at least 2,000 acres.

2. A board of county commissioners shall adopt an ordinance creating a district pursuant to this section if:

(a) Each owner of property located within the proposed district:

(1) Files with the board of county commissioners a request for the creation of such a district; and

(2) Applies for annexation to the city within whose sphere of influence the property is located;

(b) The governing body of the city within whose sphere of influence the proposed district is located has made the following findings:

(1) Public convenience and necessity require the creation of the proposed district;

(2) The creation of the proposed district is economically sound and feasible; and

(3) The service plan for the proposed district:

(I) Meets the requirements of subsection 1 of NRS 308.030;

(II) Does not meet any of the criteria for disapproval of a service plan enumerated in NRS 308.060; and

(III) Provides for adequate police protection for the proposed district and for the funding of such police protection; and

(c) The board of county commissioners has had an opportunity to review and make advisory comments on the findings of the governing body of the city described in paragraph (b).

3. The adoption of the ordinance creating a district pursuant to this section finally and conclusively establishes the regular organization of the district against all persons, which district thereafter is a governmental

subdivision of the State of Nevada, a body corporate and politic and a quasi-municipal corporation.

4. Within 30 days after the effective date of the ordinance creating the district, the county clerk shall file a copy of the ordinance in his office and shall cause to be filed an additional copy of the ordinance in the Office of the Secretary of State, which filings must be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 3. *1. After adopting an ordinance creating a district pursuant to section 2 of this act, and before appointing the first board of trustees for the district pursuant to subsection 3, the governing body of the city within whose sphere of influence the district is located is ex officio the board of trustees for the district and has the authority provided to and shall undertake the duties imposed on a board of trustees by this chapter, including, without limitation, the duties and powers pursuant to NRS 318.0953, 318.09533 and 318.09535 with respect to a board of county commissioners acting ex officio as the board of trustees of the district.*

2. While acting as the board of trustees of the district, the governing body shall establish:

(a) Accounting practices and procedures to be used by the district;

(b) Auditing practices and procedures to be used by the district;

(c) A budget for the district;

(d) Management standards for the district; and

(e) The compensation and bonds required of the trustees.

3. After the governing body has performed the duties required by subsection 2 and upon the district containing at least two qualified electors, the governing body shall:

(a) Appoint two qualified electors of the district to serve as members of the board of trustees of the district and shall specify therein the terms of office to the first Monday in January next following the respective election dates provided in subsection 4 of NRS 318.095; and

(b) Appoint three qualified electors of the district or of the city, each of whom may be a member of the governing body, to serve as members of the board of trustees of the district.

4. The members of the board of trustees shall qualify by filing with the county clerk their oaths of office and corporate surety bonds.

5. After the expiration of the terms of office of the members of the board appointed pursuant to paragraph (a) of subsection 3, the board of trustees of a district created pursuant to section 2 of this act shall consist of two members elected pursuant to subsection 4 of NRS 318.095 and three members, who must be qualified electors of either the district or the city and may be a member of the governing body of the city, appointed by the governing body of the city.

6. The members of the board of trustees of a district created pursuant to section 2 of this act who are appointed by the governing body of a city may

be removed from the board by a vote of a majority of the members of the governing body of the city.

7. The members of the board of trustees of a district created pursuant to section 2 of this act who are elected may be removed in the manner set forth in NRS 318.0955.

Sec. 4. *1. The board of trustees of a district created pursuant to section 2 of this act has the authority provided to and shall undertake the duties imposed on a board of trustees by this chapter.*

2. The board of trustees of a district created pursuant to section 2 of this act may elect to add basic powers not provided in its formation, in which event the board shall cause proceedings to be had by the governing body of the city in whose sphere of influence the district is located. The board shall obtain in connection with each such additional basic power a modified service plan for the district in a manner like that provided for an initial service plan required for the organization of a district in the Special District Control Law.

3. Contiguous territory may be added to a district created pursuant to section 2 of this act in the manner set forth in NRS 318.258 pursuant to a petition filed by the owner of the territory if the owner of the territory has applied for annexation to the city within whose sphere of influence the district is located and the territory is within that sphere of influence. As used in this subsection, "contiguous territory" means real property that abuts a boundary of a district created pursuant to section 2 of this act.

Sec. 5. *1. If all the territory of a district created pursuant to section 2 of this act is annexed pursuant to NRS 268.610 to 268.670, inclusive, the board of county commissioners shall adopt an ordinance providing for the merger of the district and the annexing city and fixing a time and place for a hearing on the merger, to be held not later than 90 days after all the territory of the district has been annexed.*

2. The county clerk shall thereupon certify a copy of the ordinance to the board of trustees of the district and shall mail written notice to all owners of real property within the district, containing the following:

(a) The adoption of the ordinance; and

(b) The time and place for the hearing on the merger.

3. After the hearing on the merger and upon determining that all outstanding indebtedness and bonds of all kinds of the district have been paid or will be assumed by the resulting merged unit of government, the board of county commissioners shall adopt a final ordinance merging the district and the city.

4. Except as otherwise provided in subsections 1, 2 and 3, a district created pursuant to section 2 of this act may not be merged, consolidated or dissolved unless the board of trustees of the district consents by a majority vote to the merger, consolidation or dissolution.

Sec. 6. *1. The provisions of sections 2 to 6, inclusive, of this act must not be construed to:*

(a) Preclude any districts, cities or counties from entering into any interlocal or other agreements regarding services to be provided to a district;

(b) Eliminate the duties of any county or other entity to provide services which it is obligated to provide within its boundaries or by agreement; or

(c) Impair any authority granted to a city pursuant to NRS 278.010 to 278.630, inclusive, over the territory within the sphere of influence of the city.

2. In the event of conflict between the provisions of sections 2 to 6, inclusive, of this act and the provisions of this chapter and chapter 308 of NRS, the provisions of sections 2 to 6, inclusive, of this act control.

Sec. 7. *In the case of a district created pursuant to section 2 of this act, wholly or in part for the purpose of furnishing police protection, the board may:*

1. Acquire police protection equipment and acquire, construct or improve police protection facilities and make improvements necessary and incidental thereto; and

2. Coordinate police protection activities with any local law enforcement agency located within the district.

Sec. 8. *In the case of a district created pursuant to section 2 of this act, wholly or in part for furnishing snow removal services, the board may:*

1. Acquire and maintain any equipment and property necessary for those services;

2. Hire and supervise personnel necessary to carry out the functions of the district; and

3. Fix rates or charges for the use of the services furnished by the district and change those rates or charges as it considers necessary.

Sec. 9. NRS 318.020 is hereby amended to read as follows:

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

1. "Acquisition," "acquire" and "acquiring" each means acquisition, extension, alteration, reconstruction, repair or other improvement by purchase, construction, installation, reconstruction, condemnation, lease, rent, gift, grant, bequest, devise, contract or other acquisition, or any combination thereof.

2. "Board of trustees" and "board" alone each means the board of trustees of a district.

3. "FM radio" means a system of radio broadcasting by means of frequency modulation.

4. "General improvement district" and "district" alone each means any general improvement district organized or, in the case of organizational provisions, proposed to be organized, pursuant to this chapter.

5. "Mail" means a single mailing first class or its equivalent, postage prepaid, by deposit in the United States mails, at least 15 days before the designated time or event.

6. "Project" and "improvement" each means any structure, facility, undertaking or system which a district is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property, including, but not limited to, land, elements and fixtures thereon, property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right therein, legal or equitable, including terms for years, or any combination thereof.

7. "Publication" means publication once in a newspaper of general circulation in the district at least 15 days before the designated time or event.

8. "Qualified elector" means a person who has registered to vote in district elections.

9. "Special assessment district" means any local public improvement district organized within a general improvement district by the board of trustees of such general improvement district pursuant to this chapter.

10. *"Sphere of influence" has the meaning ascribed to it in NRS 268.623.*

11. "Trustees" means the members of a board.

Sec. 10. NRS 318.050 is hereby amended to read as follows:

318.050 1. Except as otherwise provided in this chapter, the board of county commissioners of any county within this State is hereby vested with jurisdiction, power and authority to create districts within the county which it serves.

2. No member of a board of county commissioners *, governing body of a city* or board of trustees shall be disqualified to perform any duty imposed by this chapter by reason of ownership of property within any proposed district.

3. If the boundaries of a proposed district include territory within two or more counties, the board of county commissioners of the county in which is located the larger or largest proportion of the area of the proposed district has the jurisdiction, power and authority to create the district, to broaden its basic powers and otherwise to supervise the district as provided in this chapter.

Sec. 11. NRS 318.055 is hereby amended to read as follows:

318.055 *Except as otherwise provided in section 2 of this act:*

1. The formation of a district may be initiated by:

(a) A resolution adopted by the board of county commissioners; or

(b) A petition proposed by any owner of property to be located in the district.

2. After adoption of the resolution or receipt of the petition the organization of the district must be initiated by the adoption of an ordinance by the board of county commissioners, which is in this chapter sometimes designated the "initiating ordinance." No initiating ordinance may be adopted by the board of county commissioners if the proposed district includes any real property within 7 miles from the boundary of an incorporated city or unincorporated town unless:

(a) All members of the board of county commissioners unanimously vote for the organization of a district with boundaries which contravene this 7 mile limitation;

(b) A petition for annexation to or inclusion within the incorporated city or unincorporated town of that property has first been filed with the governing body of the incorporated city or unincorporated town pursuant to law and the governing body thereof has refused to annex or include that property and has entered the fact of that refusal in its minutes;

(c) No part of the area within the district is eligible for inclusion in a petition for such an annexation; or

(d) The governing body of the incorporated city or the town board of the unincorporated town, by resolution, consents to the formation of the district.

3. Except as is otherwise provided in this chapter, a district may be entirely within or entirely without, or partly within and partly without, one or more municipalities or counties, and the district may consist of noncontiguous tracts or parcels of property.

4. The initiating ordinance must set forth:

(a) The name of the proposed district, consisting of a chosen name preceding the word "District," or, if the district is authorized to exercise more than one basic power, the words "General Improvement District." If a district's name as provided in the organizational proceedings does not include the words "General Improvement," and if subsequently any additional basic power is granted to the district pursuant to NRS 318.077, the board of county commissioners may redesignate the district with a chosen name preceding the words "General Improvement District."

(b) A statement of the basic power or basic powers for which the district is proposed to be created *,* ~~[(]~~ for instance, by way of illustration, "for paving, curb and gutters, sidewalks, storm drainage and sanitary sewer improvements within the district . ~~[").]~~ The basic power or basic powers stated in the initiating ordinance must be one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter designated therein.

(c) A statement that the ordinance creating the district will be based on the board's finding:

(1) That public convenience and necessity require the creation of the district;

(2) That the creation of the district is economically sound and feasible;

(3) That the service plan for the district conforms to subsection 1 of NRS 308.030; and

(4) That the service plan for the district does not contravene any of the criteria enumerated in subsection 1 of NRS 308.060.

(d) A general description of the boundaries of the district or the territory to be included therein, with such certainty as to enable an owner of property to determine whether his property is within the district.

(e) The place and time for the hearing on the creation of the district.

Sec. 12. NRS 318.060 is hereby amended to read as follows:

318.060 After such initiating ordinance has been adopted by the board of county commissioners ~~[,]~~ *pursuant to NRS 318.055,* the county clerk shall

mail written notice to all property owners within the proposed district of the intention of the board of county commissioners to establish such district, which notice shall set forth the name, statement of purposes, general description and time and place of hearing.

Sec. 13. NRS 318.065 is hereby amended to read as follows:

318.065 *Except as otherwise provided in section 2 of this act:*

1. Any person who owns property which is located within the district may, on or before the date fixed, protest against the establishment of such district, in writing, which protest shall be filed with the county clerk of such county.

2. If, at or before the time fixed in the initiating ordinance and notice, written protest is filed, signed by a majority of the owners of property within such proposed district, the district shall not be established.

3. If any written protests are filed and the board of county commissioners determines that the protests so filed represent less than a majority of the owners of property within the district, the board of county commissioners, in its discretion but subject to the limitation provided by NRS 318.070, may proceed with the creation of the district. If the board of county commissioners does so proceed, the ordinance of the board of county commissioners creating the district, for which provision is made in this chapter, shall contain a recital of the number of protests filed and such recital is binding and conclusive for all purposes.

Sec. 14. NRS 318.070 is hereby amended to read as follows:

318.070 *Except as otherwise provided in section 2 of this act:*

1. At the place, date and hour specified for the hearing in the notice or at any subsequent time to which the hearing may be adjourned, the board of county commissioners shall give full consideration to all protests which may have been filed and shall hear all persons desiring to be heard and shall thereafter adopt an ordinance either creating the district or determining that it shall not be created.

2. If the board of county commissioners determines at the hearing that the proponents of such proposed district have failed to show that creation of the district is required by public convenience and necessity or have failed to show that the creation of such district is economically sound and feasible, or both, it shall adopt an ordinance determining that it shall not be created.

3. Any ordinance creating a district may contain such changes as may be considered by the board of county commissioners to be equitable and necessary.

Sec. 15. NRS 318.075 is hereby amended to read as follows:

318.075 *Except as otherwise provided in section 2 of this act:*

1. Except as otherwise provided in subsection 2, the adoption of the ordinance creating the district shall finally and conclusively establish the regular organization of the district against all persons, which district shall thenceforth be a governmental subdivision of the State of Nevada, a body corporate and politic and a quasi-municipal corporation.

2. Within 30 days immediately following the effective date of such ordinance any person who has filed a written protest, as provided in NRS 318.065, shall have the right to commence an action in any court of competent jurisdiction to set aside such determination. Thereafter all actions or suits attacking the regularity, validity and correctness of that ordinance and all proceedings, determinations and instruments taken, adopted or made prior to such ordinance's final passage, shall be perpetually barred.

3. Within 30 days after the effective date of the ordinance creating the district, the county clerk shall file a copy of the ordinance in his office and shall cause to be filed an additional copy of the ordinance in the Office of the Secretary of State, which filings shall be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 16. NRS 318.077 is hereby amended to read as follows:

318.077 ~~[The]~~ *Except as otherwise provided in section 4 of this act, the* board may elect to add basic powers not provided in its formation, in which event the board shall cause proceedings to be had by the board of county commissioners similar, as nearly as may be, to those provided for the formation of the district, and with like effect. The board shall obtain in connection with each such additional basic power a modified service plan for the district in a manner like that provided for an initial service plan required for the organization of a district in the Special District Control Law.

Sec. 17. NRS 318.080 is hereby amended to read as follows:

318.080 *Except as otherwise provided in section 3 of this act:*

1. After adopting an ordinance creating a district and before appointing the first board of trustees for the district, the board of county commissioners is, ex officio, the board of trustees for the district.

2. While acting as the board of trustees, the board of county commissioners shall establish:

(a) Accounting practices and procedures for the district;

(b) Auditing practices and procedures to be used by the district;

(c) A budget for the district; and

(d) Management standards for the district.

3. Except as otherwise provided in NRS 318.0953 and 318.09533, after the board of county commissioners has performed the duties required by subsection 2, it shall appoint five persons to serve as the first board of trustees of the district and shall specify therein the terms of office to the first Monday in January next following the respective election dates provided in NRS 318.095. Except as otherwise provided in subsection 5, these persons must be qualified electors of the district.

4. The members of the board of trustees shall qualify by filing with the county clerk their oaths of office and corporate surety bonds, at the expense of the district, the bonds to be in an amount not more than $10,000 each, the form and exact amount thereof to be approved and determined, respectively, by the board of county commissioners, conditioned for the faithful

performance of their duties as trustees. The board of county commissioners may from time to time, upon good cause shown, increase or decrease the amount of the bond.

5. The board of county commissioners may appoint as one of the five initial trustees as provided by subsection 1 the district attorney for the county or a deputy district attorney on his staff. Such appointee need not be a qualified elector of the district, but no such attorney is qualified for appointment to fill any vacancy on the board pursuant to NRS 318.090 or qualified as a candidate for election to the board at any biennial election pursuant to NRS 318.095 unless he is a qualified elector of the district.

6. The board of county commissioners of the county vested with jurisdiction pursuant to NRS 318.050 may remove any trustee serving on an appointed or elected board of trustees for cause shown, on petition, hearing and notice thereof by publication and by mail addressed to the trustee.

Sec. 18. NRS 318.085 is hereby amended to read as follows:

318.085 Except as otherwise provided in NRS 318.0953 and 318.09533:

1. After taking oaths and filing bonds, the board shall choose one of its members as chairman of the board and president of the district, and shall elect a secretary and a treasurer of the board and of the district, who may or may not be members of the board. The secretary and the treasurer may be one person.

2. The board shall adopt a seal.

3. The secretary shall keep audio recordings or transcripts of all meetings and, in a well-bound book, a record of all of the board's proceedings, minutes of all meetings, any certificates, contracts, bonds given by employees and all corporate acts. Except as otherwise provided in NRS 241.035, the book, audio recordings, transcripts and records must be open to inspection of all owners of real property in the district as well as to all other interested persons.

4. The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the district in permanent records. He shall file with the county clerk, at the expense of the district, a corporate surety bond in an amount not more than $50,000, the form and exact amount thereof to be approved and determined, respectively, by the board of county commissioners, conditioned for the faithful performance of the duties of his office. Any other officer or trustee who actually receives or disburses money of the district shall furnish a bond as provided in this subsection. The board of county commissioners may, upon good cause shown, increase or decrease the amount of that bond.

5. Except as otherwise provided in this subsection [,] *and section 3 of this act,* each member of a board of trustees of a district organized or reorganized pursuant to this chapter may receive as compensation for his service not more than $6,000 per year. Each member of a board of trustees of a district that is organized or reorganized pursuant to this chapter and which is granted the powers set forth in NRS 318.140, 318.142 and 318.144 may

receive as compensation for his service not more than $9,000 per year. The compensation of the members of a board is payable monthly, if the budget is adequate and a majority of the members of the board vote in favor of such compensation, but no member of the board may receive any other compensation for his service to the district as an employee or otherwise. Each member of the board must receive the same amount of compensation. If a majority of the members of the board vote in favor of an increase in the compensation of the trustees, the increase may not become effective until January 1 of the calendar year immediately following the next biennial election of the district as set forth in NRS 318.095.

Sec. 19. NRS 318.090 is hereby amended to read as follows:

318.090 Except as otherwise provided in NRS 318.0953 and 318.09533:

1. The board shall, by resolution, designate the place where the office or principal place of the district is to be located, which must be within the corporate limits of the district, and which may be changed by resolution of the board. Copies of all those resolutions must be filed with the county clerk or clerks of the county or counties wherein the district is located within 5 days after their adoption. The official records and files of the district must be kept at that office and must be open to public inspection as provided in NRS 239.010.

2. The board of trustees shall meet regularly at least once each year, and at such other times at the office or principal place of the district as provided in the bylaws.

3. Special meetings may be held on notice to each member of the board as often as, and at such places within the district as, the needs of the district require.

4. Three members of the board constitute a quorum at any meeting.

5. A vacancy on the board must be filled by a qualified elector of the district chosen by the remaining members of the board, the appointee to act until a successor in office qualifies as provided in NRS 318.080 *or section 3 of this act* on or after the first Monday in January next following the next biennial election, held in accordance with NRS 318.095, at which election the vacancy must be filled by election if the term of office extends beyond that first Monday in January. Nominations of qualified electors of the district as candidates to fill unexpired terms of 2 years may be made the same as nominations for regular terms of 4 years, as provided in NRS 318.095. If the board fails, neglects or refuses to fill any vacancy within 30 days after the vacancy occurs, the board of county commissioners shall fill that vacancy.

6. Each term of office of 4 years terminates on the first Monday in January next following the general election at which a successor in office is elected, as provided in NRS 318.095. The successor's term of office commences then or as soon thereafter as the successor qualifies as provided in NRS 318.080 ~~[.]~~ *or section 3 of this act,* subject to the provisions in this chapter for initial appointments to a board, for appointments to fill vacancies

of unexpired terms, and for the reorganizations of districts under this chapter which were organized under other chapters of NRS.

Sec. 20. NRS 318.095 is hereby amended to read as follows:

318.095 Except as otherwise provided in NRS 318.0953:

1. There must be held simultaneously with the first general election in the county after the creation of the district and simultaneously with every general election thereafter an election to be known as the biennial election of the district. The election must be conducted under the supervision of the county clerk or registrar of voters. A district shall reimburse the county clerk or registrar of voters for the costs he incurred in conducting the election for the district.

2. The office of trustee is a nonpartisan office. The general election laws of this State govern the candidacy, nominations and election of a member of the board. The names of the candidates for trustee of a district may be placed on the ballot for the primary or general election.

3. ~~[At]~~ *Except as otherwise provided in subsection 4, at* the first biennial election in any district organized or reorganized and operating under this chapter, and each fourth year thereafter, there must be elected by the qualified electors of the district two qualified electors as members of the board to serve for terms of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected three qualified electors as members of the board to serve for terms of 4 years.

4. *At the first biennial election in any district created pursuant to section 2 of this act, and each fourth year thereafter, there must be elected by the qualified electors of the district one qualified elector as a member of the board to serve for a term of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected one qualified elector as a member of the board to serve for a term of 4 years.*

5. The secretary of the district shall give notice of election by publication, and shall arrange such other details in connection therewith as the county clerk or registrar of voters may direct.

~~[5.]~~ *6.* Any new member of the board must qualify in the same manner as members of the first board qualify.

Sec. 21. NRS 318.0951 is hereby amended to read as follows:

318.0951 Except as otherwise provided in NRS 318.0952 or 318.0953:

1. Each trustee elected at any biennial election must be chosen by a plurality of the qualified electors of the district voting on the candidates for the vacancies to be filled.

2. *If there is one regular term which ends on the first Monday in January next following the biennial election, the qualified elector receiving the highest number of votes must be elected.* If there are two regular terms which end on the first Monday in January next following the biennial election, the two qualified electors receiving the highest and next highest number of votes must be elected. If there are three regular terms so ending, the three qualified

electors receiving the highest, next highest and third highest number of votes must be elected.

3. If there is a vacancy in an unexpired regular term to be filled at the biennial election, as provided in subsection 5 of NRS 318.090, the candidate who receives the highest number of votes, after there are chosen the successful candidates to fill the vacancies in expired regular terms as provided in subsection 2, must be elected.

Sec. 22. NRS 318.0952 is hereby amended to read as follows:

318.0952 Except as otherwise provided in NRS 318.0953 ~~[.]~~ *, and except for districts created pursuant to section 2 of this act:*

1. Trustees may be elected in the alternate manner provided in this section from election areas within the district.

2. Within 30 days before May 1 of any year in which a general election is to be held in the State, 10 percent or more of the qualified electors of the district voting at the next preceding biennial election of the district may file a written petition with the board of county commissioners of the county vested with jurisdiction under NRS 318.050 praying for the creation of election areas within the district in the manner provided in this section. The petition must specify with particularity the five areas proposed to be created. The description of the proposed election areas need not be given by metes and bounds or by legal subdivisions, but must be sufficient to enable a person to ascertain what territory is proposed to be included within a particular area. The signatures to the petition need not all be appended to one paper, but each signer must add to his name his place of residence, giving the street and number whenever practicable. One of the signers of each paper shall take an oath, before a person competent to administer oaths, that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

3. Immediately after the receipt of the petition, the board of county commissioners shall fix a date for a public hearing to be held during the month of May, and shall give notice thereof by publication at least once in a newspaper published in the county, or if no such newspaper is published therein then in a newspaper published in the State of Nevada and having a general circulation in the county. The costs of publication of that notice are a proper charge against the district fund.

4. If, as a result of the public hearing, the board of county commissioners finds that the creation of election areas within the district is desirable, the board of county commissioners shall, by resolution regularly adopted before June 1, divide the district into the areas specified in the petition, designate them by number and define their boundaries. The territory comprising each election area must be contiguous. One trustee must be elected from each election area by a majority of the qualified electors voting on the candidates for any vacancy for that area as provided in subsection 7.

5. Before June 1 and immediately following the adoption of the resolution creating election areas within a district, the clerk of the board of

county commissioners shall transmit a certified copy of the resolution to the secretary of the district.

6. Upon the creation of election areas within a district, the terms of office of all trustees then in office expire on the first Monday of January thereafter next following a biennial election. At the biennial election held following the creation of election areas within a district, district trustees to represent the odd-numbered election areas must be elected for terms of 4 years and district trustees to represent the even-numbered election areas must be elected for terms of 2 years. Thereafter, at each biennial election, the offices of trustees must be filled for terms of 4 years in the order in which the terms of office expire.

7. Candidates for election as a trustee representing any election area must be elected only by those qualified electors of the district residing in that area. No qualified elector may vote in more than one election area at any one time.

8. A candidate for the office of trustee of a district in which election areas have been created must be a qualified elector of the district and must be a resident of the election area which he seeks to represent.

9. Election areas may be altered or abolished in the same manner as provided in this section for the creation of election areas and the election of trustees therefor.

Sec. 23. NRS 318.0953 is hereby amended to read as follows:

318.0953 *Except as otherwise provided in section 2 of this act:*

1. In every county whose population is 400,000 or more, the board of county commissioners is, and in counties whose population is less than 400,000 the board of county commissioners may be, ex officio, the board of trustees of each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for sewerage as provided in NRS 318.140, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which is authorized, in addition to those basic powers, to exercise any one or more other basic powers designated in this chapter, except as provided in subsections 2 and 4.

2. The board of county commissioners of any county may be, at its option, ex officio, the board of trustees of any district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for water as provided in NRS 318.144, or, furnishing both facilities for water and facilities for sewerage as provided in NRS 318.144 and 318.140, respectively, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which:

(a) Is authorized, in addition to its basic powers, to exercise any one or more other basic powers designated in this chapter.

(b) Is organized or reorganized pursuant to this chapter, the boundaries of which include all or a portion of any incorporated city or all or a portion of a district for water created by special law.

3. In every county whose population is less than 100,000, the board of county commissioners may be, ex officio, the board of trustees of each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing emergency medical services as provided in NRS 318.1185, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.

4. A board of county commissioners may exercise the options provided in subsections 1, 2 and 3 by providing in the ordinance creating the district or in an ordinance thereafter adopted at any time that the board is, ex officio, the board of trustees of the district. The board of county commissioners shall, in the former case, be the board of trustees of the district when the ordinance creating the district becomes effective, or in the latter case, become the board of the district 30 days after the effective date of the ordinance adopted after the creation of the district. In the latter case within the 30-day period the county clerk shall promptly cause a copy of the ordinance to be:

(a) Filed in his office;

(b) Transmitted to the secretary of the district; and

(c) Filed in the Office of the Secretary of State without the payment of any fee and otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 24. NRS 318.0955 is hereby amended to read as follows:

318.0955 ~~[Members]~~ *Except as otherwise provided in section 3 of this act, members* of the board of trustees are subject to recall from office pursuant to the provisions of the Constitution and statutes of this State.

Sec. 25. NRS 318.098 is hereby amended to read as follows:

318.098 1. The board of trustees of any district may request, in writing, assistance from any elected or appointed officer of the county in which the district is located ~~[.]~~ *or, if the district was created pursuant to section 2 of this act, the city within whose sphere of influence the district is located.*

2. The officer shall furnish the requested assistance, after an agreement has been reached concerning the amount of money which the board of trustees shall pay for the assistance. The cost shall not be more than the actual additional expense necessitated by the request.

3. The board shall, by a resolution spread upon its minutes, order payment made in the amount, in each case, which was agreed upon by the board of trustees and the officer furnishing the assistance.

Sec. 26. NRS 318.116 is hereby amended to read as follows:

318.116 Any one, all or any combination of the following basic powers may be granted to a district in proceedings for its organization, or its reorganization pursuant to NRS 318.077 and all provisions in this chapter supplemental thereto, or as may be otherwise provided by statute:

1. Furnishing electric light and power, as provided in NRS 318.117;

2. Extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or Fasciola hepatica, as provided in NRS 318.118;

3. Furnishing facilities or services for public cemeteries, as provided in NRS 318.119;

4. Furnishing facilities for swimming pools, as provided in NRS 318.1191;

5. Furnishing facilities for television, as provided in NRS 318.1192;

6. Furnishing facilities for FM radio, as provided in NRS 318.1187;

7. Furnishing streets and alleys, as provided in NRS 318.120;

8. Furnishing curbs, gutters and sidewalks, as provided in NRS 318.125;

9. Furnishing sidewalks, as provided in NRS 318.130;

10. Furnishing facilities for storm drainage or flood control, as provided in NRS 318.135;

11. Furnishing sanitary facilities for sewerage, as provided in NRS 318.140;

12. Furnishing facilities for lighting streets, as provided in NRS 318.141;

13. Furnishing facilities for the collection and disposal of garbage and refuse, as provided in NRS 318.142;

14. Furnishing recreational facilities, as provided in NRS 318.143;

15. Furnishing facilities for water, as provided in NRS 318.144;

16. Furnishing fencing, as provided in NRS 318.1195;

17. Furnishing facilities for protection from fire, as provided in NRS 318.1181;

18. Furnishing energy for space heating, as provided in NRS 318.1175;

19. Furnishing emergency medical services, as provided in NRS 318.1185;

20. Control and eradication of noxious weeds, as provided in chapter 555 of NRS; ~~[and]~~

21. Establishing, controlling, managing and operating an area or zone for the preservation of one or more species or subspecies of wildlife that has been declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq., as provided in NRS 318.1177 ~~[.]~~ *;*

22. For a district created pursuant to section 2 of this act, furnishing police protection, as provided in section 7 of this act; and

23. For a district created pursuant to section 2 of this act, furnishing snow removal services, as provided in section 8 of this act.

Sec. 27. NRS 318.143 is hereby amended to read as follows:

318.143 1. Subject to the provisions of subsection 2, the board may acquire, construct, reconstruct, improve, extend and better lands, works, systems and facilities for recreation.

2. ~~[If]~~ *Except as otherwise provided in section 2 of this act, if* the proposed recreational facilities are situated within 7 miles from the boundary of an incorporated city or unincorporated town, and if the county in which the proposed recreational facilities are situated has adopted a recreation plan pursuant to NRS 278.010 to 278.630, inclusive, the authority conferred by subsection 1 may be exercised only in conformity with such plan.

3. Such recreational facilities may include without limitation exposition buildings, museums, skating rinks, other type rinks, fieldhouses, sports arenas, bowling alleys, swimming pools, stadiums, golf courses, tennis courts, squash courts, other courts, ball fields, other athletic fields, tracks, playgrounds, bowling greens, ball parks, public parks, promenades, beaches, marinas, levees, piers, docks, wharves, boat basins, boathouses, harborages, anchorages, gymnasiums, appurtenant shower, locker and other bathhouse facilities, amusement halls, dance halls, concert halls, theaters, auditoriums, aviaries, aquariums, zoological gardens, biological gardens and vivariums *,* ~~[(]~~ or any combination thereof *.* ~~[).]~~

Sec. 28. NRS 318.215 is hereby amended to read as follows:

318.215 1. When a district *other than a district created pursuant to section 2 of this act* abuts a city or town, the board shall have the power to convey to such city or town, at the discretion of the district and with the consent of the governing authority thereof, all of the property of such district upon the condition that such city or town:

(a) Will operate and maintain such property, regardless of whether the area comprising the district is annexed to the municipality; and

(b) May assume all of the indebtedness of such district upon such conditions as the county or town and the governing body of the district may agree.

2. Upon such conveyance and assumption of indebtedness the district shall be dissolved and a certificate to such effect shall be signed by the clerical officer of the city or town and filed with the Secretary of State and county clerk of any county in which the ordinance creating the district is filed.

Sec. 29. NRS 318.257 is hereby amended to read as follows:

318.257 *Except for a district created pursuant to section 2 of this act:*

1. A fee owner of real property situate in the district, or the fee owners of any real properties which are contiguous to each other and which constitute a portion of the district may file with the board a petition praying that such lands be excluded and taken from the district.

2. Petitions shall:

(a) Describe the property which the petitioners desire to have excluded.

(b) State that the property is not capable of being served with facilities of the district, or would not be benefited by remaining in the district or by any future improvement it might make.

(c) Be acknowledged in the same manner and form as required in case of a conveyance of land.

(d) Be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings.

3. The secretary of the board shall cause a notice of filing of such petition to be published, which notice shall:

(a) State the filing of such petition.

(b) State the names of the petitioners.

(c) Describe the property mentioned in the petition.

(d) State the prayer of the petitioners.

(e) Notify all persons interested to appear at the office of the board at the time named in the notice, showing cause in writing, if any they have, why the petition should not be granted.

4. The board at the time and place mentioned in the notice, or at the times to which the hearing of the petition may be adjourned, shall proceed to hear the petition and all objections thereto, presented in writing by any person showing cause why the prayer of the petition should not be granted.

5. The filing of such petition shall be deemed and taken as an assent by each and all such petitioners to the exclusion from the district of the property mentioned in the petition, or any part thereof.

6. The board, if it deems it not for the best interest of the district that the property mentioned in the petition, or portion thereof, be excluded from the district, shall order that the petition be denied in whole or in part, as the case may be.

7. If the board deems it for the best interest of the district that the property mentioned in the petition, or some portion thereof be excluded from the district, the board shall order that the petition be granted in whole or in part, as the case may be.

8. There shall be no withdrawal from a petition after consideration by the board nor shall further objection be filed except in case of fraud or misrepresentation.

9. Upon allowance of such petition, the board shall file for record a certified copy of its resolution making such change, as provided in NRS 318.075 [.] *or section 2 of this act.*

Sec. 30. NRS 318.258 is hereby amended to read as follows:

318.258 The boundaries of a district may be enlarged by the inclusion of additional real property therein in the following manner:

1. The fee owner or owners of any real property capable of being served with facilities of the district may file with the board a petition in writing praying that such property be included in the district.

2. The petition shall:

(a) Set forth an accurate legal description of the property owned by the petitioners.

(b) State that assent to the inclusion of such property in the district is given by the signers thereto, constituting all the fee owners of such property.

(c) Be acknowledged in the same manner required for a conveyance of land.

3. There shall be no withdrawal from a petition after consideration by the board nor shall further objections be filed except in case of fraud or misrepresentation.

4. The board shall hear the petition at an open meeting after publishing the notice of the filing of such petition, and of the place, time and date of such meeting, and the names and addresses of the petitioners. The board shall

grant or deny the petition and the action of the board is final and conclusive. If the petition is granted as to all or any of the real property therein described, the board shall make an order to that effect, and file it for record as provided in NRS 318.075 [.] *or section 2 of this act.*

5. If the costs of extending the facilities of the district are paid by the property owners of the area to be included within the district, these property owners are entitled to receive any money charged and collected by the district when additional property owners utilize the facilities which were extended.

6. The board of trustees of the district shall pay to the property owners pro rata shares of the money charged and collected.

7. After the date of its inclusion in such district, such property is subject to all of the taxes and charges imposed by the district, and is liable for its proportionate share of existing general obligation bonded indebtedness of the district; but it is not liable for any taxes or charges levied or assessed prior to its inclusion in the district, nor shall its entry into the district be made subject to or contingent upon the payment or assumption of any penalty, toll or charge, other than any reasonable annexation charge which the board may fix and uniformly assess and the tolls and charges which are uniformly made, assessed or levied for the entire district. Such charges shall be computed in such a manner as not to place a new charge against the district members nor penalize the area annexed.

8. In any district within the region of any interstate compact relating to planning, when any petition for the inclusion of property into any district is denied, the petitioner may appeal the denial to the board of county commissioners of the county in which such district is located, which shall review such denial and may, in its discretion, order that such property be included in the district.

9. The board of county commissioners of any county in which a district is located may by ordinance require the district to include additional real property within its boundaries if:

(a) The inclusion is required by a federal law or regulation issued thereunder;

(b) The district can provide the services required by the owners of the real property; and

(c) The owners of the real property pay the costs of providing the facilities.

Sec. 31. NRS 318.490 is hereby amended to read as follows:

318.490 *Except as otherwise provided in section 5 of this act:*

1. Except as otherwise provided in NRS 318.492, whenever a majority of the members of the board of county commissioners of any county deem it to be in the best interests of the county and of the district that the district be merged, consolidated or dissolved, or if the board of trustees of a district, by resolution pursuant to subsection 3, agrees to such a merger, consolidation or dissolution, the board of county commissioners shall so determine by

ordinance, after there is first found, determined and recited in the ordinance that:

(a) All outstanding indebtedness and bonds of all kinds of the district have been paid or will be assumed by the resulting merged or consolidated unit of government.

(b) The services of the district are no longer needed or can be more effectively performed by an existing unit of government.

2. The county clerk shall thereupon certify a copy of the ordinance to the board of trustees of the district and shall mail written notice to all property owners within the district in his county, containing the following:

(a) The adoption of the ordinance;

(b) The determination of the board of county commissioners that the district should be dissolved, merged or consolidated; and

(c) The time and place for hearing on the dissolution, merger or consolidation.

3. If a majority of the members of the board of county commissioners of a county deems it to be in the best interests of the county and of a district that was, on October 1, 2005, exercising powers pursuant to NRS 318.140, 318.142 and 318.144, that the district be merged, consolidated or dissolved, the board of county commissioners shall submit the question of the merger, consolidation or dissolution to the board of trustees of the district. If the board of trustees of the district, by resolution, does not agree to the merger, consolidation or dissolution within 90 days after the question was submitted to it, the district may not be merged, consolidated or dissolved.

Sec. 32. NRS 318.492 is hereby amended to read as follows:

318.492 *Except as otherwise provided in section 5 of this act:*

1. If all the territory within a district organized pursuant to this chapter is included within the boundaries of a city incorporated under the provisions of chapter 266 of NRS, the board of county commissioners of the county shall, within 90 days after the filing of the notice required by NRS 266.033, adopt an ordinance providing for the merger of the district with the city and fixing a time and place for a hearing on the merger.

2. The county clerk shall certify a copy of the ordinance and give notice of its adoption in the manner provided by subsection 2 of NRS 318.490.

3. The board of county commissioners shall thereafter proceed to hear and determine the matter as provided in NRS 318.495 and 318.500.

Sec. 33. NRS 318.495 is hereby amended to read as follows:

318.495 *Except as otherwise provided in section 5 of this act:*

1. Any person who owns property which is located within the district may, on or before the date fixed, protest against the dissolution, merger or consolidation of such district, in writing, which protest shall be filed with the county clerk of such county.

2. If, at or before the time fixed by the ordinance and notice, written protest is filed signed by a majority of the owners of property within the district, the district shall not be dissolved, merged or consolidated. If any

written protests are filed and the board of county commissioners determines that the protests so filed represent less than a majority of the owners of property within the district, the board may, if it so determines, complete the dissolution, merger or consolidation by the adoption of a final ordinance of dissolution, which ordinance shall contain a recital of the protests, and such recital is binding and conclusive for all purposes.

Sec. 34. NRS 318.500 is hereby amended to read as follows:

318.500 ~~[At]~~ *Except as otherwise provided in section 5 of this act, at* the place, date and hour specified for the hearing in the notice or at any subsequent time to which the hearing may be adjourned, the board of county commissioners shall give full consideration to all protests which may have been filed and shall hear all persons desiring to be heard and shall thereafter adopt either the final ordinance of dissolution, merger or consolidation or an ordinance determining that it shall not be dissolved, merged or consolidated.

Sec. 35. NRS 318.505 is hereby amended to read as follows:

318.505 ~~[Within]~~ *Except as otherwise provided in section 5 of this act, within* 30 days after the effective date of any ordinance dissolving, merging or consolidating the district, the county clerk shall file a copy of the ordinance in his office and shall cause to be filed an additional copy of the ordinance in the Office of the Secretary of State, which filings shall be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 36. NRS 318.508 is hereby amended to read as follows:

318.508 ~~[If]~~ *Except as otherwise provided in section 5 of this act, if* a final ordinance of dissolution is adopted pursuant to NRS 318.492:

1. The merger of the district is effective on July 1 of the year next following the date the incorporation of the city becomes effective.

2. The city shall assume the obligations and functions of the district.

3. Any outstanding and unpaid tax sale or levy and any special assessment lien of the district is valid and remains a lien upon the property against which it is assessed or levied until paid, subject to the limitations of liens provided by general law. Any tax or special assessment paid after the effective date of the merger must be placed in the general fund of the city.

4. The city council of the city has the same power to enforce the collection of any special assessment or outstanding tax sales of the district as the district would have had if it had not been merged.

Sec. 37. NRS 318.510 is hereby amended to read as follows:

318.510 *Except as otherwise provided in section 5 of this act:*

1. All property and all funds remaining in the treasury of any district must be:

(a) Surrendered and transferred to the county in which the district exists and become a part of the general fund of the county, if the district is dissolved;

(b) Transferred to the governmental unit which assumes its obligations and functions, if the district is merged; or

(c) Transferred to the consolidated governmental unit, if the district is consolidated.

2. All outstanding and unpaid tax sales and levies and all special assessment liens of a dissolved district are valid and remain a lien against the property against which they are assessed or levied until paid, subject to the limitations of liens provided by general law. Taxes and special assessments paid after dissolution must be placed in the general fund of the county in which the property was assessed.

3. Except as otherwise provided in NRS 318.508, the board of county commissioners has the same power to enforce the collection of all special assessments and outstanding tax sales of the district as the district had if it had not been dissolved, merged or consolidated.

4. If any area comprising the district or portion thereof is annexed to a city or town within 6 months from the effective date of the dissolution ordinance, a pro rata share of all such property and funds must be transferred to the municipality.

5. If any area comprising the district or portion thereof is not annexed to a city or town within 6 months from the effective date of the dissolution ordinance, the board of county commissioners shall pay to the owners of property located within the former district pro rata shares of the money remaining in the treasury of the district, and an amount of money equal to the value of any property which is not used for the benefit of the area formerly comprising the district. The board of county commissioners may, before paying such money, apply a proportionate amount of such payment to any special assessments which are due.

Sec. 38. NRS 318.515 is hereby amended to read as follows:

318.515 1. ~~[Upon]~~ *Except as otherwise provided in subsection 5, upon* notification by the Department of Taxation or upon receipt of a petition signed by 20 percent of the qualified electors of the district, that:

(a) A district of which the board of county commissioners is not the board of trustees is not being properly managed;

(b) The board of trustees of the district is not complying with the provisions of this chapter or with any other law; or

(c) The service plan established for the district is not being complied with,

➥ the board of county commissioners of the county in which the district is located shall hold a hearing to consider the notification or petition.

2. The county clerk shall mail written notice to all persons who own property within the district and to all qualified electors of the district, which notice shall set forth the substance of the notification or petition and the time and place of the hearing.

3. At the place, date and hour specified for the hearing, or at any subsequent time to which the hearing may be adjourned, the board of county commissioners shall give full consideration to all persons desiring to be heard and shall thereafter:

(a) Adopt an ordinance constituting the board of county commissioners, ex officio, as the board of trustees of the district;

(b) Adopt an ordinance providing for the merger, consolidation or dissolution of the district pursuant to NRS 318.490 to 318.510, inclusive ~~[,]~~ *, or section 5 of this act;*

(c) File a petition in the district court for the county in which the district is located for the appointment of a receiver for the district; or

(d) Determine by resolution that management and organization of the district will remain unchanged.

4. The Department of Taxation or any interested person may, within 30 days immediately following the effective date of the ordinance adopted under paragraph (a) or resolution adopted under paragraph (d) of subsection 3, commence an action in any court of competent jurisdiction to set aside the ordinance or resolution. After the expiration of 30 days, all actions attacking the regularity, validity and correctness of that ordinance or resolution are barred.

5. The governing body of a city shall carry out the provisions of this section with respect to a district created pursuant to section 2 of this act within the sphere of influence of the city.

Sec. 39. NRS 244.188 is hereby amended to read as follows:

244.188 1. Except as otherwise provided in subsection 3 and NRS 269.128 and 269.129, a board of county commissioners may, outside the boundaries of incorporated cities and general improvement districts:

(a) Provide those services set forth in NRS 244.187 on an exclusive basis or, by ordinance, adopt a regulatory scheme for controlling the provision of those services or controlling development in those areas on an exclusive basis; or

(b) Grant an exclusive franchise to any person to provide those services.

2. If services for the collection and disposal of garbage are provided pursuant to subsection 1, the board of county commissioners may, except as otherwise provided in subsection 3, require owners of real property outside the boundaries of incorporated cities and general improvement districts to receive and pay for those services.

3. The board of county commissioners may exercise the authority provided in subsections 1 and 2 within the boundaries of a general improvement district if that district:

(a) Is not authorized to provide those services; and

(b) ~~[Includes]~~ *Except as otherwise provided in section 2 of this act, includes* any real property within 7 miles from the boundary of an incorporated city.

4. If an exclusive franchise is granted or a regulatory scheme is adopted for the mandatory collection and disposal of garbage and other waste, the initial boundaries of the collection area must be the same as the boundaries of an existing collection area under an exclusive franchise or regulatory scheme.

5. The board of county commissioners may expand the boundaries of a collection area established pursuant to subsection 4 after the board has:

(a) Conducted preliminary studies and determined that the proposed collection area is economically sound and feasible and promotes the health, safety and general welfare of the inhabitants of the county; and

(b) Held a public hearing on the proposed collection area after giving notice of the time and the place of the hearing in a newspaper of general circulation in that county. The notice must include the purpose of the hearing and describe the boundaries of the proposed collection area.

Sec. 40. NRS 266.043 is hereby amended to read as follows:

266.043 1. During the period from the filing of the notice of the results of the election by the county clerk pursuant to NRS 266.033 until the date the incorporation of the city becomes effective, the county is entitled to receive the taxes and other revenue from the incorporated city and shall continue to provide services to the city.

2. Except as otherwise provided in NRS 318.492 ~~[,]~~ *or section 5 of this act,* all special districts, except fire protection districts, located within the boundaries of an incorporated city continue to exist within that city after the incorporation becomes effective.

Sec. 41. NRS 268.616 is hereby amended to read as follows:

268.616 "Commission" means a city annexation commission or, for the purposes of NRS 268.630 to 268.670, inclusive, in counties where no city annexation commission exists, the board of county commissioners, or in Carson City, the board of supervisors or, in a county which has entered an interlocal agreement pursuant to subsection 2 of NRS 268.626, the regional planning commission ~~[.]~~ *, which includes the representative of the general public appointed pursuant to subsection 3 of that section.*

Sec. 42. NRS 268.626 is hereby amended to read as follows:

268.626 1. There is hereby created, in each county of the State whose population is 100,000 or more ~~[and]~~ *but* less than 400,000, a city annexation commission which consists of members to be selected as follows:

(a) Two members representing the county, one of whom must be the chairman of the board of county commissioners and the other a member of the board to be chosen by the board.

(b) One member representing each city, who must be a member of the governing body to be chosen by the governing body.

(c) If the provisions of paragraphs (a) and (b) result in an even number of members, the Governor shall appoint an additional member who is the chairman of the regional planning commission.

2. The governing bodies of a county and each incorporated city in the county may execute an interlocal agreement to transfer the duties of the city annexation commission to the regional planning commission.

3. If the duties of the city annexation commission are transferred to the regional planning commission by interlocal agreement pursuant to subsection 2, the chairman of the regional planning commission shall

appoint to the regional planning commission one member to represent the general public. The person appointed to represent the general public:

(a) Is a member of the regional planning commission solely for the limited purpose of the regional planning commission performing the duties related to annexation that would otherwise be carried out by the city annexation commission.

(b) Serves for a term of 1 year to coincide with the term of the chairman as established in subsection 3 of NRS 278.0262.

(c) Serves without compensation.

(d) Is not required to complete the course of training described in subsection 5 of NRS 278.0262.

Sec. 43. NRS 268.662 is hereby amended to read as follows:

268.662 1. Whenever it is necessary for the purposes of NRS 268.610 to 268.670, inclusive, to determine ~~[the]~~ *:*

(a) The number or identity of the owners of real property in a territory proposed to be annexed ~~[,]~~ *or in an unincorporated area that is within a certain distance outside the boundaries of the territory proposed to be annexed; or*

(b) The identity of the owners of a certain number of parcels of real property in an unincorporated area that are located nearest to the boundaries of the territory proposed to be annexed,

~~,~~ a list of such owners, certified by the county assessor on any date between the initiation as provided in NRS 268.636 and the hearing as provided in NRS 268.658, both dates inclusive, ~~[shall be]~~ *is* prima facie evidence that only those persons named thereon are such owners.

2. A petition *,* ~~[or]~~ protest *or written opposition* is sufficient for the purposes of NRS 268.610 to 268.670, inclusive, as to any parcel of real property:

(a) Which is owned by more than one natural person, if it is signed by a majority of the owners.

(b) Which is owned by an artificial person, if it is signed by any authorized agent.

Sec. 44. NRS 268.670 is hereby amended to read as follows:

268.670 1. ~~[As]~~ *Except as otherwise provided in subsections 2, 3 and 4, as* an alternative to the procedures for initiation of annexation proceedings set forth in NRS 268.610 to 268.668, inclusive, the governing body of a city may, subject to the provisions of NRS 268.663 and after notifying the board of county commissioners of the county in which the city lies of its intention, annex:

(a) Contiguous territory owned in fee by the city.

(b) Other contiguous territory if 100 percent of the owners of record of individual lots or parcels of land within such ~~[area]~~ *territory* sign a petition requesting the governing body to annex such ~~[area]~~ *territory* to the city. ~~[If]~~ *Except as otherwise provided in subsections 2, 3 and 4, if* such petition is received and accepted by the governing body, the governing body may

proceed to adopt an ordinance annexing such ~~[area]~~ *territory* and to take such other action as is necessary and appropriate to accomplish such annexation.

2. *In a county whose population is 100,000 or more but less than 400,000, at least 30 days before the governing body of a city annexes territory that is not within the city's sphere of influence, the governing body shall provide notice of its intention to annex that territory. Such notice must be provided in writing and sent by first-class mail to:*

(a) The board of county commissioners of the county in which the city is located;

(b) Each owner of real property in the unincorporated area that is within 750 feet outside the boundaries of the territory proposed to be annexed; and

(c) The owner of each of the 30 separately owned parcels in the unincorporated area outside the boundaries of the territory proposed to be annexed, which parcels are nearest the territory proposed to be annexed, to the extent this notice does not duplicate the notice given pursuant to paragraph (b).

3. Within 30 days after the mailing of the notice pursuant to subsection 2, the board of county commissioners or an owner of real property in the unincorporated area in which owners of real property are required to be given notice pursuant to paragraph (b) or (c) of subsection 2 may file with the governing body a written opposition to the proposed annexation.

4. If the governing body of a city receives a written opposition pursuant to subsection 3, the governing body shall:

(a) Ensure that the written opposition is made a part of any hearing or other official proceeding held to discuss or deliberate regarding the proposed annexation of the territory; and

(b) Consider the written opposition in determining whether to adopt an ordinance annexing the territory.

5. For the purposes of this section, "contiguous" means either abutting directly on the boundary of the annexing municipality or separated from the boundary thereof by a street, alley, public right-of-way, creek, river or the right-of-way of a railroad or other public service corporation, or by lands owned by the annexing municipality, by some other political subdivision of the State or by the State of Nevada.

Sec. 45. NRS 278.0262 is hereby amended to read as follows:

278.0262 *Except as otherwise provided in subsection 3 of NRS 268.626:*

1. There is hereby created in each county whose population is 100,000 or more but less than 400,000, a regional planning commission consisting of:

(a) Three members from the local planning commission of each city in the county whose population is 60,000 or more, appointed by the respective governing bodies of those cities;

(b) One member from the local planning commission of each city in the county whose population is less than 60,000, appointed by the respective governing bodies of those cities; and

(c) Three members from the local planning commission of the county, appointed by the governing body of the county, at least two of whom must reside in unincorporated areas of the county.

2. Except for the terms of the initial members of the commission, the term of each member is 3 years and until the selection and qualification of his successor. A member may be reappointed. A member who ceases to be a member of the local planning commission of the jurisdiction from which he is appointed automatically ceases to be a member of the commission. A vacancy must be filled for the unexpired term by the governing body which made the original appointment.

3. The commission shall elect its chairman from among its members. The term of the chairman is 1 year. The member elected chairman must have been appointed by the governing body of the county or a city whose population is 60,000 or more, as determined pursuant to a schedule adopted by the commission and made a part of its bylaws which provides for the annual rotation of the chairmanship among each of those governing bodies.

4. A member of the commission must be compensated at the rate of $80 per meeting or $400 per month, whichever is less.

5. Each member of the commission must successfully complete the course of training prescribed by the governing body pursuant to subsection 2 of NRS 278.0265 within 1 year after the date on which his term of appointment commences. A member who fails to complete successfully the course of training as required pursuant to this subsection forfeits his appointment 1 year after the date on which his term of appointment commenced.

Sec. 46. *NRS 278.0272 is hereby amended to read as follows:*

278.0272 1. The regional planning commission shall develop a comprehensive regional plan for the physical development and orderly management of the growth of the region for the next 20 years.

2. The plan must consist of written text, appropriate maps and such goals and policies, including those addressing current and future problems, as may, in the opinion of the commission, affect the region as a whole and are proper for inclusion in the regional plan.

3. In developing the plan, the commission shall:

(a) Review and consider each existing regional plan and master plan that has been adopted pursuant to the provisions of this chapter and that applies to any area in the region, and any similar plan of a local government, and may seek and consider the advice of each local planning commission and any other affected entity; and

(b) Coordinate the elements of the plan and make them consistent with each other.

4. Before approving the plan, the commission must hold a public hearing on the proposed plan in each of the cities within the region and in the unincorporated area of the county.

5. Before amending the plan, the commission must hold at least one public hearing on the proposed amendment at a location in the region.

6. The approval of the plan or any amendment to it must be by resolution of the commission carried by the affirmative votes of not less than two-thirds of its total membership ~~[.]~~ *, excluding any person appointed to the commission pursuant to subsection 3 of NRS 268.626.*

7. The regional planning commission shall review the plan annually, update it not less than every 5 years, and forward its recommendations regarding proposed amendments to the plan to the governing board for adoption. Amendments to the comprehensive regional plan may be proposed only by the regional planning commission, the governing board or a local governing body. Except as otherwise provided in subsection 8, all requests for amendments to the plan must be studied and considered at public hearings held annually by the commission.

8. The commission may consider a proposed amendment and determine whether it is necessary to the health and welfare of the community or substantially benefits the community in general. If the commission determines that the amendment is necessary, it may schedule a public hearing on the amendment at any time. Any person may appeal the determination of the commission to the governing board.

9. Except as otherwise provided in this subsection, notice of the time and place of each hearing required by the provisions of this section must be given by publication in a newspaper of general circulation in the region at least 10 days before the day of the hearing. If there is more than one newspaper of general circulation in the region, notice must be given by publication in at least two such newspapers. Notice of the time and place of the initial meeting of the regional planning commission and the hearing at which the commission receives testimony concerning final approval of the comprehensive regional plan must be given by publication at least 30 days before the day of the meeting or hearing. Notice given pursuant to this subsection must be a display advertisement of not less than 3 inches by 5 inches.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 514.

Bill read third time.

Roll call on Assembly Bill No. 514:

YEAS—21.

NAYS—None.

Assembly Bill No. 514 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 573.

Bill read third time.

Roll call on Assembly Bill No. 573:

YEAS—21.

NAYS—None.

Assembly Bill No. 573 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 70.

Bill read third time.

The following amendment was proposed by Senator Washington:

Amendment No. 960.

"SUMMARY—Revises provisions governing the compensation of the members of the boards of trustees of school districts. (BDR 34-878)"

"AN ACT relating to education; revising provisions governing the monthly salaries of the members of the boards of trustees of school districts; authorizing the donation of the salaries to schools and school districts; and providing other matters ~~[property]~~ *properly* relating thereto."

Legislative Counsel's Digest:

Existing law prescribes varying salaries for the officers and other members of the boards of trustees of school districts based on the number of pupils enrolled in the school district during the immediately preceding school year. (NRS 386.320) This bill revises provisions governing the salaries of the members of the boards of trustees of school districts based on the population of the county in which the school district is located. This bill also authorizes a member of the board of trustees to donate all or a part of his salary to a school within the school district or to the school district.

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

Section 1. NRS 386.290 is hereby amended to read as follows:

386.290 1. In addition to salaries ~~[allowed under]~~ *required by* NRS 386.320 *,* a trustee ~~[shall]~~ *must* be allowed:

(a) His traveling expenses for traveling each way between his home and the place where board meetings are held at the rate authorized by law for state officers.

(b) His living expenses necessarily incurred while in actual attendance at board meetings at the rate authorized by law for state officers.

2. Claims for mileage and per diem allowances ~~[shall]~~ *must* be allowed and paid in the same manner as other claims against the school district fund are paid, but no claim for mileage and per diem allowances for living expenses ~~[shall]~~ *must* be allowed or paid to a trustee residing not more than 5 miles from the place where board meetings are held.

Sec. 2. NRS 386.320 is hereby amended to read as follows:

386.320 1. ~~[If the total pupil enrollment in the school district for the immediately preceding school year is less than 1,000:~~

~~(a) The clerk and president of the board of trustees may each receive a salary of $85 for each board of trustees meeting they attend, not to exceed $170 a month.~~

~~(b) The other trustees may each receive a salary of $80 for each board of trustees meeting they attend, not to exceed $160 a month.~~

~~(c)]~~ *Each member of the board of trustees of a school district in a county whose population is less than 100,000 must receive a salary of $115 for each meeting of the board he attends, not to exceed $345 per month.*

2. Each member of the board of trustees of a school district in a county whose population is 100,000 or more must receive a salary of ~~[$2,000]~~ $115 for each meeting of the board he attends, not to exceed $920 per month.

3. A member of the board of trustees of a school district who receives a salary pursuant to this section may:

(a) Donate all or a part of the monthly salary that he receives to a school within the school district or to the school district; or

(b) In lieu of making a donation after he receives the salary, request that all or a part of his monthly salary be paid directly to a school within the school district or to the school district.

4. The board of trustees may hire a stenographer to take the minutes of the meetings of the board of trustees, and the stenographer may be paid a reasonable fee for each meeting attended.

~~[2. If the total pupil enrollment in the school district for the immediately preceding school year is 1,000 or more:~~

~~(a) The clerk and president of the board of trustees may each receive a salary of $85 for each board of trustees meeting they attend, not to exceed $510 a month.~~

~~(b) The other trustees may each receive a salary of $80 for each board of trustees meeting they attend, not to exceed $480 a month.~~

~~(c) The board of trustees may hire a stenographer to take the minutes of the meetings of the board of trustees, and the stenographer may be paid a reasonable fee for each meeting attended.]~~

Sec. 3. NRS 387.310 is hereby amended to read as follows:

387.310 1. Except as otherwise provided by the board of trustees, the clerk of the board shall draw all orders for the payment of money belonging to the school district. The orders must be listed on cumulative voucher sheets.

2. The board of trustees shall prescribe the procedures by which the orders must be approved and the cumulative voucher sheets signed. The procedures must provide:

(a) That the approval of the board of trustees is required before orders are paid unless a payment must be expedited for the school district to:

(1) Receive a discount or other savings which is related to the timeliness of payment;

(2) Avoid a service charge or other cost which is related to the timeliness of payment; or

(3) Abide by a purchase order, contract or other order for payment which has been approved by the board of trustees at a public meeting.

(b) For ratification by the board of trustees at its next regularly scheduled meeting of any payment that is made without the approval of the board pursuant to an exception set forth in paragraph (a).

3. When the orders have been approved and the cumulative voucher sheets have been signed in accordance with such procedures, the orders are valid vouchers in the hands of the county auditor for him to issue warrants on the county treasurer to be paid out of money belonging to the school district.

4. No order in favor of the board of trustees or any member thereof, except for salaries as ~~[authorized]~~ *required* by NRS 386.320 ~~[, authorized]~~ *or* travel expenses and subsistence ~~[of trustees or for services of any trustee as clerk of the board,]~~ *as authorized by NRS 386.290,* may be drawn.

5. No order for salary for any teacher may be drawn unless the teacher is included in the directory of teachers supplied to the clerk of the board of trustees pursuant to the provisions of NRS 391.045.

6. An order drawn by a clerk of a board of trustees pursuant to subsection 1 is void if not presented for payment within 1 year after the date of issuance.

7. Any order remaining unpaid after the expiration of 1 year, whether outstanding or uncalled for in the office of the county auditor, must be cancelled by the county auditor, who shall immediately notify the county treasurer of the cancellation. The county treasurer shall not pay a warrant presented for payment more than 1 year after the date of issuance of such an order. This subsection does not apply if the board of trustees establishes and administers a separate account pursuant to NRS 354.603.

Sec. 4. Notwithstanding the provisions of NRS 386.320, as amended by section 2 of this act, to the contrary, the salaries of the members of the board of trustees of a school district are not required to be increased pursuant to that section until July 1, 2008.

Sec. 5. *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. 5.]~~ *Sec. 6.* This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senators Washington and McGinness.

Motion lost on a division of the house.

Roll call on Assembly Bill No. 70:

YEAS—6.

NAYS—Beers, Carlton, Cegavske, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Titus, Washington, Wiener, Woodhouse—15.

Assembly Bill No. 70 having failed to receive a constitutional majority, Mr. President declared it lost.

Assembly Bill No. 178.

Bill read third time.

The following amendment was proposed by Senator Townsend:

Amendment No. 1013.

"SUMMARY—Revises provisions relating to net metering and energy. (BDR 58-1054)"

"AN ACT relating to energy; requiring certain lights sold in this State to meet certain standards of energy efficiency; revising the authority of the Director of the Office of Energy; *revising the membership of the Task Force for Renewable Energy and Energy Conservation;* revising various provisions relating to net metering; *providing for the establishment of a pilot program to collect and separate recyclable material that may be used as renewable energy or converted into renewable fuel;* providing for the establishment of the Wind Energy Systems Demonstration Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill prohibits the sale in this State of certain general purpose lights that do not produce a certain amount of lumens per watt of electricity consumed, and requires the Director of the Office of Energy to adopt regulations establishing a minimum standard of energy efficiency for such lights.

Existing law provides for the membership of the Task Force for Renewable Energy and Energy Conservation. (NRS 701.350) Sections 1.35 and 29.7 of this bill revise the membership of the Task Force.

Existing law authorizes a customer of an electric utility to use a net metering system on the customer's premises to generate electricity to offset part or all of the customer's requirements for electricity. The net metering system must use renewable energy as its primary source of energy to generate electricity, and the system is allowed to have a generating capacity of not more than 150 kilowatts. (NRS 704.766-704.775)

Section 1.4 of this bill provides that one of the purposes and policies of the Legislature in enacting the net metering statutes is to streamline the process for customers of a utility to apply for and install net metering systems.

Section 1.5 of this bill provides for a general increase in the permissible capacity of net metering systems and allows a customer-generator to use a net metering system of not more than 1 megawatt. However, section 1.5 also places specific limitations on the capacity of net metering systems under certain circumstances.

Section 2 of this bill requires the Public Utilities Commission of Nevada to adopt regulations regarding a net metering tariff and a standard net metering contract. Section 3 of this bill changes the method for calculating the value of the electricity generated by certain net metering systems.

Existing law provides for the establishment of programs for collecting and separating recyclable material. (Chapter 444A of NRS) Section 4.5 of this bill provides that in a county whose population is 400,000 or more (currently

Clark County), the board of county commissioners shall, in conjunction with each licensed hauler of garbage and refuse, establish a pilot program for collecting and separating recyclable material that may be used as a source of renewable energy or converted into renewable fuel.

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections 5-29 of this bill enact the Wind Energy Systems Demonstration Program Act, a similar demonstration program for wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy efficiency established by the Director pursuant to subsection 3 for lumens per watt of electricity consumed.

3. The Director shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:

(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy efficiency established by the Director must exceed 25 lumens per watt of electricity consumed.

(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.

4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the Director by regulation.

Sec. 1.3. NRS 701.170 is hereby amended to read as follows:

701.170 The Director may:

1. Administer any gifts or grants which the Office of Energy is authorized to accept for the purposes of this chapter.

2. Expend money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.

5. Assist developers of renewable energy generation projects in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.

6. Adopt any regulations that the Director determines are necessary to carry out the duties of the Office of Energy pursuant to this chapter.

7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Office of Energy. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Office of Energy.

8. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Office of Energy.

Sec. 1.35. *NRS 701.350 is hereby amended to read as follows:*

701.350 1. The Task Force for Renewable Energy and Energy Conservation is hereby created. The Task Force consists of ~~[11]~~ *15* members who are appointed as follows:

(a) Two members appointed by the Majority Leader of the Senate, one of whom represents the interests of the renewable energy industry in this State with respect to biomass and the other of whom represents the interests of the mining industry in this State.

(b) Two members appointed by the Speaker of the Assembly, one of whom represents the interests of the renewable energy industry in this State with respect to geothermal energy and the other of whom represents the interests of a nonprofit organization dedicated to the protection of the environment or to the conservation of energy or the efficient use of energy.

(c) One member appointed by the Minority Leader of the Senate to represent the interests of the renewable energy industry in this State with respect to solar energy.

(d) One member appointed by the Minority Leader of the Assembly to represent the interests of the public utilities in this State.

(e) Two members appointed by the Governor, one of whom represents the interests of the renewable energy industry in this State with respect to wind and the other of whom represents the interests of the gaming industry in this State.

(f) One member appointed by the Consumer's Advocate to represent the interests of the consumers in this State.

(g) One member appointed by the governing board of the State of Nevada AFL-CIO or, if the State of Nevada AFL-CIO ceases to exist, by its successor organization or, if there is no successor organization, by the Governor.

(h) One member appointed by the Governor to represent the interests of energy conservation and the efficient use of energy in this State.

(i) One member appointed by the Desert Research Institute or its successor organization or, if there is no successor organization, by the Governor.

(j) One member appointed by the Commission on Economic Development.

(k) Two members appointed jointly by the United States Senators of this State.

2. A member of the Task Force:

(a) Must be a citizen of the United States and a resident of this State.

(b) Must have training, education, experience or knowledge concerning:

(1) The development or use of renewable energy;

(2) Financing, planning or constructing renewable energy generation projects;

(3) Measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(4) Weatherization;

(5) Building and energy codes and standards;

(6) Grants or incentives concerning energy;

(7) Public education or community relations; or

(8) Any other matter within the duties of the Task Force.

(c) Must not be an officer or employee of the Legislative or Judicial Department of State Government.

3. After the initial terms, the term of each member of the Task Force is 3 years. A vacancy on the Task Force must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may be reappointed to the Task Force.

4. A member of the Task Force who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Task Force and perform any work that is necessary to carry out the duties of the Task Force 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 Task Force to:

(a) Make up the time he is absent from work to carry out his duties as a member of the Task Force; or

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

Sec. 1.4. NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, to:

1. Encourage private investment in renewable energy resources;

2. Stimulate the economic growth of this State; ~~[and]~~

3. Enhance the continued diversification of the energy resources used in this State ~~[.]~~ *; and*

4. Streamline the process for customers of a utility to apply for and install net metering systems.

Sec. 1.5. NRS 704.771 is hereby amended to read as follows:

704.771 *1.* "Net metering system" means a facility or energy system for the generation of electricity that:

~~[1.]~~ *(a)* Uses renewable energy as its primary source of energy to generate electricity;

~~[2.]~~ *(b)* Has a generating capacity of not more than ~~[150 kilowatts;~~

~~3.]~~ *1 megawatt;*

(c) Is located on the customer-generator's premises;

~~[4.]~~ *(d)* Operates in parallel with the utility's transmission and distribution facilities; and

~~[5.]~~ *(e)* Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

Sec. 2. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~[30]~~ *100* kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount

greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~[30]~~ *100* kilowatts, the utility ~~[may:~~

~~(a) Require]~~ *:*

(a) May require the customer-generator to install at its own cost ~~[an]~~ *:*

(1) An energy meter that is capable of measuring generation output and customer load ~~[.]~~ *; and*

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) ~~[Charge]~~ *Except as otherwise provided in paragraph (c), may charge* the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➥ *based on the allowable size of the net metering system.*

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 3. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. ~~[If a customer-generator's net metering system has a capacity of not more than 30 kilowatts, the]~~ *The* net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during

the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for *the* electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The *value of the* excess electricity ~~[which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~3. If a customer-generator's net metering system has a capacity of more than 30 kilowatts, the net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall:~~

~~(1) Measure, in kilowatt hours, the amount of electricity supplied by the utility to the customer-generator during the billing period and calculate its value using the tariff that would be applicable if the customer-generator did not use a net metering system; and~~

~~(2) Measure, in kilowatt hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.~~

~~(b) If the value of electricity supplied by the utility exceeds the value of the electricity generated by the customer-generator which is fed back to the~~

~~utility during the billing period, the customer-generator must be billed for the net value of the electricity supplied by the utility.~~

~~(c) If the value of the electricity generated by the customer-generator which is fed back to the utility exceeds the value of the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for the value of the electricity provided to the other during the billing period.~~

~~(2) The value of the excess electricity:~~

~~(I) Must not be shown as a credit on the customer-generator's bill for that billing period but must be reflected as a credit that is carried forward to offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt-hours. If the credit is reflected as excess electricity and the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer-generator ceases to be a customer of the utility at the premises served by the net metering system or the customer-generator transfers the net metering system to another person.~~

~~(II) Does not reduce any other fee or charge imposed by the utility.~~

~~(3) The excess electricity which is fed back to the utility~~] *must not be used to reduce any other fee or charge imposed by the utility.*

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than ~~[150 kilowatts,]~~ *1 megawatt,* including, without limitation, a net metering system, as defined in NRS 704.771.

➥ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 4.5. Chapter 444A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners in a county whose population is 400,000 or more shall, in conjunction with each licensed hauler of garbage and refuse operating in the county, establish a pilot program for collecting and separating recyclable material that has the potential to be used as a source of renewable energy or converted into renewable fuel.

2. The pilot program must include, without limitation:

(a) An exploration of technologies and processes that are able to use recyclable material as a source of renewable energy or convert recyclable material into renewable fuel.

(b) The creation and maintenance of adequate records to allow an assessment of the feasibility of establishing a statewide recycling standard.

3. The pilot program must not conflict with the standards relating to recyclable material adopted by the State Environmental Commission pursuant to NRS 444A.020.

4. As used in this section:

(a) "Licensed hauler of garbage and refuse" means a person who holds the licenses and permits required to operate a business of collecting and disposing of garbage and refuse. The term includes a person who is licensed to operate a business of collecting recyclable material.

(b) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

Sec. 5. Sections 5 to 29, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 6. As used in sections 5 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 21, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 7. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 8. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 9. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 22 of this act.

Sec. 10. "Commission" means the Public Utilities Commission of Nevada.

Sec. 11. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 12. "Institution of higher education" means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 13. "Participant" means a person who has been selected by the Committee pursuant to section 26 of this act to participate in the Wind Demonstration Program.

Sec. 14. "Person" includes, without limitation, a governmental entity.

Sec. 15. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 16. "Public property" means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 17. "School property" means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 18. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 19. "Utility" means a public utility that supplies electricity in this State.

Sec. 20. "Wind Demonstration Program" or "Program" means the Wind Energy Systems Demonstration Program created by section 22 of this act.

Sec. 21. "Wind energy system" means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 22. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 23 of this act;

(b) Submit an application to a utility and be selected by the Committee for inclusion in the Program pursuant to sections 25 and 26 of this act;

(c) When installing the wind 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; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 23. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility′s annual plan for carrying out and administering the Program. A utility′s annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 24. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 25 of this act.

2. A utility may recover its reasonable and prudent costs, including, without limitation, 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.

Sec. 25. 1. On or before February 1, 2008, 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 Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, 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.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the Committee the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The Committee shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 26 of this act, the Committee may approve, from among the applications recommended by each utility, wind energy systems totaling:

(a) For the program year beginning July 1, 2008:

(1) 500 kilowatts of capacity for school property;

(2) 500 kilowatts of capacity for other public property;

(3) 700 kilowatts of capacity for private residential property and small business property; and

(4) 700 kilowatts of capacity for agricultural property.

(b) For the program year beginning July 1, 2009:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 26. 1. Based on the applications submitted by each utility for a program year, the Committee shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the Committee selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Committee on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Committee may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant′s status on the list of participants or the prioritized waiting list.

Sec. 27. 1. Except as otherwise provided in this section, if the Committee determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the Committee shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The Committee may, without notice or an opportunity for a hearing, withdraw from the Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.

(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.

Sec. 28. 1. After a participant installs a wind energy system included in the Wind 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 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 29. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 29.5. The Director of the Office of Energy shall adopt the regulations required by section 1 of this act on or before October 1, 2011.

Sec. 29.7. 1. The appointment of the additional members to the Task Force for Renewable Energy and Energy Conservation required by NRS 701.350, as amended by section 1.35 of this act, must be made as soon as practicable on or after passage and approval of this act, except that none of the additional members may begin serving a term sooner than July 1, 2007.

2. The initial terms of the additional members appointed pursuant to paragraphs (i) and (j) of subsection 1 of NRS 701.350, as amended by section 1.35 of this act, expire on June 30, 2010.

3. The initial term of the additional member appointed pursuant to paragraph (k) of subsection 1 of NRS 701.350, as amended by section 1.35 of this act, expires on June 30, 2009.

Sec. 30. 1. This *section and sections 1.4 to 4, inclusive, of this act become effective upon passage and approval.*

2. Sections 1.35 and 29.7 of this act become effective:

(a) Upon passage and approval for the purposes of appointing additional members to the Task Force for Renewable Energy and Energy Conservation; and

(b) On July 1, 2007, for all other purposes.

3. Sections 1, 1.3, 4.5, 5 to 29, inclusive, and 29.5 of this act ~~[becomes]~~ *become* effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) On October 1, 2007, for all other purposes.

~~[2.]~~ *4.* Sections 5 to 29, inclusive, of this act expire by limitation on June 30, 2011.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 375.

Bill read third time.

The following amendment was proposed by Senator Townsend:

Amendment No. 1029.

"SUMMARY—Revises certain provisions governing mortgages. (BDR 54-393)"

"AN ACT relating to loans; creating various education and examination requirements related to an initial license as a mortgage broker or mortgage agent; requiring the designation of a qualified employee for certain mortgage brokers; creating certain requirements related to continuing education and mortgage lending; creating certain requirements for fees associated with loans secured by liens on real property; providing for certain requirements related to mortgage brokers and broker-dealers, sales representatives, investment advisers and representatives of investment advisers; revising the possible range of certain fees related to a license as a mortgage broker; revising the apportionment of certain extra hours of continuing education earned by a mortgage broker; requiring the Commissioner of Mortgage Lending to adopt certain regulations concerning investors and limitations on loans to directors, officers and employees; providing for biennial examinations of certain mortgage brokers under various circumstances; revising the deadline for certain financial statements by a mortgage broker; creating requirements for new financial statements related to certain accounts of a mortgage broker; revising certain advertising requirements of a mortgage broker; prohibiting a mortgage broker from assigning all or part of his interest in a loan that is secured by a lien on real property under certain circumstances; revising certain provisions ~~[related]~~ *relating* to persons not subject to chapter 645E of NRS; revising certain provisions ~~[related]~~ *relating* to persons exempt from chapter 645E of NRS; revising the possible range of fees for a license as a mortgage banker; revising provisions ~~[related]~~ *relating* to financial statements of a mortgage banker; revising provisions ~~[related]~~ *relating* to foreign corporations and what constitutes doing business in this State; requiring certain present and future mortgage broker and mortgage

agent licensees to meet certain requirements; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law regulates the activities of various mortgage lenders, including the activities of mortgage brokers and mortgage bankers. (Chapters 645B and 645E of NRS) Existing law further provides that, subject to administrative supervision by the Director of the Department of Business and Industry, the Commissioner of Mortgage Lending is required to administer the provisions of law governing the licensing and regulation of mortgage brokers and mortgage bankers. (NRS 645B.060, 645E.300, 645F.250)

Section 1.4 of this bill revises the requirements for an initial license as a mortgage broker or mortgage agent regarding education on mortgage lending and applicable examinations.

Section 1.6 of this bill requires that a qualified employee be designated by a mortgage broker who is not a natural person.

Section 1.8 of this bill revises provisions concerning the requirements that a course of continuing education must meet, including, without limitation, requirements relating to providers and instructors, records, approval and revocation of approval of courses, monitoring, disciplinary action, and participation by representatives of the mortgage lending industry in the creation of the requirements.

Section 2 of this bill requires a mortgage broker to ensure that each loan secured by a lien on real property for which the mortgage broker engages in activity as a mortgage broker includes a reasonable fee for servicing the loan.

Section 3 of this bill prohibits a mortgage broker who is licensed or exempt from licensing as a broker-dealer, sales representative, investment adviser or representative of an investment adviser under the laws of this State from commingling money received from mortgage transactions with money received from securities transactions.

Existing law *exempts certain banks, companies, associations and credit unions from the provisions governing mortgage brokers and mortgage agents. (NRS 645B.015) Section 4.1 of this bill clarifies that the exemption includes an operating subsidiary or holding company of such a bank, company, association or credit union. Section 4.2 of this bill requires a person who claims an exemption to provide evidence to the Commissioner that the person is licensed to conduct his business and that the license is in good standing.*

Existing law describes various fees ~~[related]~~ *relating* to a license as a mortgage broker. (NRS 645B.050) Section 4.4 of this bill revises the range of fees that may be charged for a license as a mortgage broker.

Existing law describes various continuing education requirements for a mortgage broker. (NRS 645B.051) Section 4.8 of this bill revises how various extra hours of continuing education that are earned by a mortgage broker may be apportioned by the Commissioner.

Existing law defines an "investor" for purposes of chapter 645B of NRS to mean a person who wishes to acquire or who acquires ownership of or a beneficial interest in a loan that is secured by a lien on real property. (NRS 645B.0121) Section 5 of this bill requires the Commissioner to establish, by regulation, the financial conditions for an investor to acquire that ownership or beneficial interest in the loan.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) Section 5 of this bill requires the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage brokers to directors, officers or employees of the mortgage broker. (NRS 645B.060)

Existing law provides for annual examinations of mortgage brokers. (NRS 645B.060) Section 5 of this bill provides for biennial examinations of a mortgage broker, rather than annual examinations, in certain circumstances.

Existing law provides for a mortgage broker to submit a financial statement to the Commissioner at the end of each fiscal year. (NRS 645B.085) Section 5.3 of this bill changes the deadline for this financial statement.

Existing law provides for requirements related to accounts for certain money received in relation to various loans secured by liens on real property. (NRS 645B.175) Section 5.6 of this bill requires the submission every 6 months of a new financial statement for such accounts.

Existing law provides for certain advertising requirements for mortgage brokers. (NRS 645B.189) Section 5.9 of this bill revises those requirements to require only those mortgage brokers who have received an initial license in the last 12 months to submit advertisements for the Commissioner′s approval.

Existing law prohibits a mortgage broker from assigning his interest in a loan that is secured by a lien on real property unless the mortgage broker obtains title insurance for the property and records the assignment in the county recorder′s office of the county in which the property is located. (NRS 645B.310) Section 6 of this bill requires the mortgage broker also to obtain the approval of each investor in the loan if, at the time of the assignment, the debtor on the loan is in default on his loan payments.

Existing law provides for persons who are not subject to chapter 645E of NRS. ~~[Section]~~ *Similar to the clarification made in section 4.1 of this bill, section* 10 of this bill clarifies which subsidiaries or holding companies are not subject to that chapter.

Existing law provides for the requirements that a person must meet to claim an exemption from the provisions of chapter 645E of NRS. (NRS 645E.160) ~~[Section]~~ *Similar to the changes made in section 4.2 of this bill, section* 10.4 of this bill revises the requirements in regards to those who hold certain licenses and in regards to federal law.

Existing law provides for various fees related to a license as a mortgage banker. (NRS 645E.280) Section 10.8 of this bill revises the range of fees that may be charged for a license as a mortgage banker.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) Section 11 of this bill requires the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage bankers to directors, officers or employees of the mortgage banker. (NRS 645E.300)

Existing law provides for a mortgage banker to submit a financial statement to the Commissioner at the end of each fiscal year. (NRS 645E.360) Section 11.5 of this bill changes the deadline for this financial statement.

Existing law provides for the regulation of foreign corporations. (Chapter 80 of NRS) Section 12.4 of this bill revises the definition of what constitutes doing business in this State relating to foreign corporations and regarding the activities of a mortgage broker or a mortgage banker or arranging a mortgage loan that is not secured by commercial property.

Section 12.8 of this bill requires certain present and future holders of a license as a mortgage agent or mortgage broker or a designation as a qualified employee to meet various requirements contained in this bill.

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 to 3, inclusive, of this act.

Sec. 1.4. *1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:*

(a) Complete education on mortgage lending as required by this chapter; or

(b) Successfully pass a written examination as determined by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division:

(a) May hire a testing organization to create, administer and score a written examination; and

(b) May create waivers for a written examination.

4. The Commissioner may adopt regulations to carry out the provisions of this section, including, without limitation, regulations relating to the content of a written examination, the scoring of a written examination or any possible waivers of a written examination.

Sec. 1.6. *1. If a mortgage broker is not a natural person, the mortgage broker must designate a natural person as a qualified employee to act on behalf of the mortgage broker.*

2. The Division shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 1.8. *1. A course of continuing education that is required pursuant to chapter 645B of NRS must meet the requirements set forth by the Commissioner by regulation.*

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

Sec. 2. *A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.*

Sec. 3. *1. A mortgage broker who is a broker-dealer or a sales representative licensed pursuant to NRS 90.310 or who is exempt from licensure pursuant to NRS 90.320:*

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

2. A mortgage broker who is an investment adviser or a representative of an investment adviser licensed pursuant to NRS 90.330 or exempt from licensure pursuant to NRS 90.340:

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

Sec. 4. (Deleted by amendment.)

Sec. 4.1. *NRS 645B.015 is hereby amended to read as follows:*

645B.015 Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies,

savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, ~~[unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.]~~ *including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.*

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 4.2. *NRS 645B.016 is hereby amended to read as follows:*

645B.016 Except as otherwise provided in NRS 645B.690 ~~[.]~~ *and subsection 2:*

1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645B.015 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; ~~[and]~~

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015 ~~[.]~~ *; and*

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. *The provisions of subsection 1 do not apply to the extent preempted by federal law.*

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

~~[3.]~~ *4.* A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.

~~[4.]~~ *5.* If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker or mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent unless the person applies for and is issued:

(a) A license as a mortgage broker or mortgage agent, as applicable, pursuant to this chapter; or

(b) Another certificate of exemption.

~~[5.]~~ *6.* The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 4.4. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051; and

(d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of *not more than* $200; and

(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of *not more than* $100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, *not more than* $1,500 for the principal office and *not more than* $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, *not more than* $1,000 for the principal office and *not more than* $60 for each branch office.

(c) To renew a license, *not more than* $500 for the principal office and *not more than* $100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, *not more than* $200.

(b) To renew a certificate of exemption, *not more than* $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of *not more than* $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, ~~[increase]~~ *adjust* any fee set forth in this section if the Commissioner determines that such an ~~[increase]~~ *adjustment* is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any ~~[increase]~~ *adjustment* in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 4.8. NRS 645B.051 is hereby amended to read as follows:

645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that ~~[any]~~ *, if a person attends more than 10* hours of ~~[a certified course]~~ *certified courses* of continuing education ~~[attended]~~ during a 12-month period, ~~[but not needed]~~ *the extra hours may be used* to satisfy ~~[a requirement set forth in this section]~~ *the requirement* for the *immediately following* 12-month period ~~[in which the course was taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.]~~ *and for that immediately following 12-month period only.*

3. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which ~~[is certified by:~~

~~(a) The National Association of Mortgage Brokers or any successor in interest to that organization; or~~

~~(b) Any organization designated for this purpose by the Commissioner by regulation.]~~ *meets the requirements set forth by the Commissioner by regulation pursuant to section 1.8 of this act.*

Sec. 5. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt *regulations:*

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any *other* regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

~~[(b)]~~ *(c)* Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~[(c)]~~ *(d)* ~~[Conduct]~~ *Except as otherwise provided in subsection 4, conduct* an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.

~~[(d)]~~ *(e)* Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary ~~[and proper]~~ for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

~~[(e)]~~ *(f)* Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

~~[(f)]~~ *(g)* Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct biennial examinations of a mortgage broker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage broker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.

Sec. 5.3. NRS 645B.085 is hereby amended to read as follows:

645B.085 1. Except as otherwise provided in this section, not later than ~~[90]~~ *120* days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage broker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection 4 of NRS 645B.175, those accounts must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage broker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 5.6. NRS 645B.175 is hereby amended to read as follows:

645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or his designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

(c) Pursuant to any instructions regarding the escrow account.

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or his designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and

(b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a mortgage broker and his mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.

(2) Received pursuant to subsection 1.

5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that he owns in the loan; and

(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.

6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the mortgage broker and his mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person′s contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.

11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.

Sec. 5.9. NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker *who has received his initial license within the past 12 months* shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 6. NRS 645B.310 is hereby amended to read as follows:

645B.310 A mortgage broker shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker:

1. Obtains a policy of title insurance for the real property; ~~[and]~~

2. *Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and*

3. Records the assignment in the office of the county recorder of the county in which the real property is located.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, ~~[unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.]~~ *including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.*

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees′ Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 10.4. NRS 645E.160 is hereby amended to read as follows:

645E.160 1. ~~[A]~~ *Except as otherwise provided in subsection 2, a* person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; ~~[and]~~

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150 ~~[.]~~ *; and*

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. *The provisions of subsection 1 do not apply to the extent preempted by federal law.*

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

~~[3.]~~ *4.* A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

~~[4.]~~ *5.* If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

~~[5.]~~ *6.* The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 10.8. NRS 645E.280 is hereby amended to read as follows:

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the license pursuant to this section.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before December 31 of any year, the license is cancelled. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of *not more than* $200.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before December 31 of any year, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) A reinstatement fee of *not more than* $100.

5. A person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, *not more than* $1,500 for the principal office and *not more than* $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, *not more than* $1,000 for the principal office and *not more than* $60 for each branch office.

(c) To renew a license, *not more than* $500 for the principal office and *not more than* $100 for each branch office.

6. A person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, *not more than* $200.

(b) To renew a certificate of exemption, *not more than* $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of *not more than* $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 11. NRS 645E.300 is hereby amended to read as follows:

645E.300 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage bankers doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt *regulations establishing reasonable limitations and guidelines on loans made by a mortgage banker to a director, officer or employee of the mortgage banker.*

(b) Adopt any *other* regulations that are necessary to carry out the provisions of this chapter, except as to loan fees.

~~[(b)]~~ *(c)* Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~[(c)]~~ *(d)* ~~[Conduct]~~ *Except as otherwise provided in subsection 4, conduct* an annual examination of each mortgage banker doing business in this State.

~~[(d)]~~ *(e)* Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary ~~[and proper]~~ for the efficient administration of the laws of this State regarding mortgage bankers.

~~[(e)]~~ *(f)* Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

~~[(f)]~~ *(g)* Conduct such examinations and investigations as are necessary to ensure that mortgage bankers meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage banker shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct biennial examinations of a mortgage banker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage banker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage banker; and

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division.

Sec. 11.5. NRS 645E.360 is hereby amended to read as follows:

645E.360 1. Except as otherwise provided in this section, not later than ~~[60]~~ *120* days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage banker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.

3. If a mortgage banker maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage banker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 12. (Deleted by amendment.)

Sec. 12.4. NRS 80.015 is hereby amended to read as follows:

80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless he:

(a) Maintains an office in this State for the transaction of business; ~~[or]~~

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS ~~[.]~~ *;*

(c) Solicits business for the activities of a mortgage broker as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100; or

(d) Arranges a mortgage loan secured by real property which is not commercial property as defined by NRS 645E.040.

4. The fact that a person is not doing business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 12.8. 1. Any person who received or will receive a mortgage agent license between October 1, 2004, and June 30, 2008, must fulfill the requirements of section 1.4 of this act before January 1, 2009, in the same manner as a person obtaining an initial license. If the person who received a mortgage agent license between October 1, 2004, and June 30, 2008, does not do so, the license of that person is suspended until he does so.

2. Any natural person who received or will receive a mortgage broker license or an initial designation as a qualified employee by a mortgage broker between October 1, 2005, and June 30, 2008, must fulfill the requirements of

section 1.4 of this act before January 1, 2009, in the same manner as a natural person obtaining an initial license. If the natural person who received a mortgage broker license or was initially designated as the qualified employee by a mortgage broker between October 1, 2005, and June 30, 2008, does not do so, the license of that natural person is suspended until he does so.

Sec. 13. 1. This section, section 1 and sections 2 to 12.4, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2007, for all other purposes.

2. Sections 1.4, 1.6, 1.8 and 12.8 of this act become effective:

(a) Upon passage and approval for purpose of adopting regulations, administering examinations as set forth in section 1.4 of this act and approving courses of continuing education as set forth in section 1.8 of this act; and

(b) On July 1, 2008, for all other purposes.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 526.

Bill read third time.

The following amendment was proposed by Senator Townsend:

Amendment No. 991.

"SUMMARY—Revises provisions relating to community antenna television, cable television, video service, Internet service and other information technology. (BDR 58-1129)"

"AN ACT relating to information technology; revising provisions governing the regulation of community antenna television, cable television and other video service; establishing a new regulatory structure for video service providers; requiring the Secretary of State to perform certain duties under the new regulatory structure; limiting the regulatory powers of local governments regarding video service providers; providing fees; requiring providers of Internet service to offer, under certain circumstances, products or services which enable subscribers to regulate and monitor a child's use of the Internet; providing remedies and penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill enacts various provisions relating to community antenna television, cable television, video service, Internet service and other information technology.

Under existing law, a local government has the authority to grant local franchises for the operation of a community antenna or cable television system within its jurisdiction. Because each local government has independent authority to grant its own franchises, a cable operator that wants

to operate in multiple jurisdictions must negotiate a separate local franchise with each local government. (Chapter 711 of NRS)

To promote competition in the cable industry, the federal Cable Act prohibits a local government from granting an exclusive franchise or unreasonably refusing to grant competitive franchises. The federal Cable Act also prohibits a local government from imposing a franchise fee that exceeds 5 percent of a cable operator's gross revenue. (47 U.S.C. §§ 541, 542)

This bill repeals the existing statutory scheme of regulating video service through local franchises and replaces it with a statutory scheme that is intended to promote more competition in the market for such service. This bill applies to community antenna television companies, cable operators and other video service providers. However, this bill allows an existing franchise holder to continue operating under its local franchise until that franchise expires, and this bill also allows a local government in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to renew or extend the term of a local franchise.

Under this bill, a video service provider must obtain a certificate of authority from the Secretary of State, which acts as a state-issued franchise to provide video service within the service areas designated in the certificate. This bill establishes various standards and practices for video service providers, including requirements for providing local governments with community access channels for public, educational and governmental programming.

This bill preempts most local regulation of video service providers. However, this bill allows a local government to manage the activities of video service providers within any public right-of-way or highway, including inspecting any construction or repair work. This bill also allows a local government to impose a franchise fee that does not exceed 5 percent of a video service provider's gross revenue.

Finally, this bill requires a provider of Internet service, under certain circumstances, to make available to subscribers in this State products or services which enable the subscribers to block, restrict and monitor a child's Internet activities. This bill authorizes the provider to charge a fee to those subscribers who elect to use the products or services. A provider of Internet service that fails to comply with the requirements commits a deceptive trade practice and is subject to the procedures for administrative enforcement and the remedies and penalties under the Deceptive Trade Practice Act. (NRS 598.0903-598.0999)

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

Section 1. NRS 704.030 is hereby amended to read as follows:

704.030 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to $5,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in section 27 of this act, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

Sec. 2. Chapter 711 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 60, inclusive, of this act.

Sec. 3. *"Agreement" means any agreement or contract of any kind.*

Sec. 4. *"Cable operator" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 5. *"Cable service" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 6. *"Cable system" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 7. *"Certificate of authority" or "certificate" means a certificate issued by the Secretary of State pursuant to this chapter which grants the holder of the certificate a state-issued franchise to provide video service and construct and operate a video service network within the service areas designated in the certificate.*

Sec. 8. *"Commercial mobile service provider" means a person who provides commercial mobile service, as defined in 47 U.S.C. § 332(d), as that section existed on January 1, 2007.*

Sec. 9. *"Franchise" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 10. *"Franchise fee" means a franchise fee imposed by a local government on a video service provider for the privilege of providing video service.*

Sec. 11. *1. "Gross revenue" means:*

(a) Any revenue a video service provider receives from its subscribers for providing video service to those subscribers, as determined in accordance with generally accepted accounting principles, except for revenue excluded pursuant to subsection 3; and

(b) Any other consideration a video service provider receives from its subscribers for providing video service when it is received in a transaction that would evade imposition of a franchise fee if such consideration is not included in revenue, except for revenue excluded pursuant to subsection 3.

2. The term includes, without limitation:

(a) Recurring monthly charges;

(b) Event-based charges, including, without limitation, charges for pay per view and video on demand;

(c) Charges for the rental of set-top boxes and other equipment;

(d) Service charges, including, without limitation, charges for activation, installation, repair and maintenance;

(e) Administrative charges, including, without limitation, charges for service orders and service termination; and

(f) The amount of any revenue received by a video service provider for providing video service when such service is a component of a bundle of services or products sold for a single price, but only to the extent the revenue received by the video service provider for the bundle of services or products is proportionately allocated among each of the components.

3. The term does not include:

(a) Revenue not actually received, regardless of when it is billed.

(b) Refunds, rebates or discounts made to subscribers.

(c) Revenue from providing service other than video service, including, without limitation, revenue from providing:

(1) Telecommunication service; or

(2) Information service that is not video service.

(d) Any fee imposed on the video service provider that is passed through to and paid by subscribers, including, without limitation, a franchise fee.

(e) Revenue from the sale of video service to any person who purchases the video service for resale and who, upon resale, is required to pay a franchise fee pursuant to this chapter or the terms of a local franchise.

(f) Any tax of general applicability.

(g) The fair market value of free or reduced-cost video service provided without set-off or exchange to any person who is entitled or permitted to receive such service pursuant to this chapter or federal law.

(h) Late payment fees collected from subscribers.

Sec. 12. *"Holder of a certificate" or "holder" means a video service provider that has been issued a certificate of authority pursuant to this chapter.*

Sec. 13. *"Incumbent cable operator" means any cable operator, community antenna television company or other video service provider that, on the effective date of this act, is providing video service in this State pursuant to a local franchise.*

Sec. 14. *"Information service" has the meaning ascribed to it in 47 U.S.C. § 153(20), as that section existed on January 1, 2007.*

Sec. 15. *"Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.*

Sec. 16. *"Jurisdiction of a local government" means:*

1. In the case of a city, the corporate limits of the city.

2. In the case of a county, the unincorporated area of the county.

Sec. 17. *1. "Local franchise" means any franchise, agreement, permit, license or similar authorization, regardless of its name, which:*

(a) Permits a person to construct or operate a cable system, community antenna television system or video service network within the jurisdiction of a local government;

(b) Was issued, granted, approved or renewed by the governing body of the local government before the effective date of this act pursuant to the authority of any federal, state or local law in effect at the time of the issuance, grant, approval or renewal; and

(c) On the effective date of this act, is legally effective and unexpired.

2. The term includes, without limitation, an unexpired local franchise that a local government in a county whose population is less than 100,000 renews or extends the term of pursuant to sections 32 and 32.5 of this act.

Sec. 18. *"Local law" means any charter, code, ordinance, regulation or other law of a local government.*

Sec. 19. *"Multichannel video programming distributor" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 20. *"Service area" means the geographical territory in this State within which a video service provider is authorized to provide video service pursuant to a certificate of authority or local franchise.*

Sec. 21. *1. "Subscriber" means any person in this State who purchases video service.*

2. The term does not include any person who purchases video service for resale and who, upon resale, is required to pay a franchise fee pursuant to this chapter or the terms of a local franchise.

Sec. 22. *"Telecommunication" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received, regardless of the facilities, equipment or technology used.*

Sec. 23. *"Telecommunication provider" means any person required to obtain from the Public Utilities Commission of Nevada a certificate of public convenience and necessity pursuant to NRS 704.330 to provide telecommunication service.*

Sec. 24. *"Telecommunication service" means the offering of telecommunication for a fee directly to the public, or such classes of users as to be effectively available directly to the public, regardless of the equipment, facilities or technology used.*

Sec. 25. *1. "Video service" means the provision of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, cable service or other digital television service, whether provided as part of a tier, on-demand or on a per-channel basis, without regard to the technology used to deliver the video service, including, without limitation, Internet protocol technology or any successor technology.*

2. The term includes, without limitation:

(a) Cable service; and

(b) Video service delivered by a community antenna television system.

3. The term does not include:

(a) Any video content provided solely as part of, and through, a service which enables users to access content, information, electronic mail or other services that are offered via the public Internet.

(b) Direct broadcast satellite service.

(c) Any wireless multichannel video programming provided by a commercial mobile service provider.

Sec. 26. *1. "Video service network" means a wireline facility, or any component thereof, which is:*

(a) Located in this State;

(b) Constructed in whole or in part in, on, under or over any public right-of-way or highway; and

(c) Used to provide video service.

2. The term includes, without limitation:

(a) A cable system; and

(b) A community antenna television system.

Sec. 27. *1. "Video service provider" or "provider" means any person that provides or offers to provide video service over a video service network to subscribers in this State.*

2. The term includes, without limitation:

(a) An incumbent cable operator or other cable operator;

(b) A community antenna television company; and

(c) A multichannel video programming distributor.

Sec. 28. *This chapter occupies the entire field of franchising and regulation of video service and, except as otherwise provided in sections 45 and 46 of this act, preempts any local law or agreement with a local government that:*

1. Requires a person to obtain or hold from a local government any franchise, permit, license or similar authorization, regardless of its name, to provide video service or to construct or operate a video service network, unless the person is an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise.

2. Regulates the provision of video service or the construction or operation of a video service network if such regulation conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. Requires a video service provider to pay any fee to a local government if the payment of such a fee conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

Sec. 29. *1. For the purpose of bringing about fair and reasonable competition for video service, the Secretary of State has the exclusive authority to issue a certificate of authority to a person to provide video service and construct and operate a video service network in any service area in this State.*

2. The Secretary of State:

(a) Shall carry out the provisions of this chapter; and

(b) May adopt regulations necessary for the issuance, modification and termination of a certificate of authority, including, without limitation, prescribing any forms related to the application process.

3. On or after the effective date of this act, a local government does not have the authority to:

(a) Issue, grant, approve or renew any franchise, agreement, permit, license or similar authorization, regardless of its name, for the privilege of:

(1) Providing video service within the jurisdiction of the local government; or

(2) Except as otherwise provided in sections 45 and 46 of this act, constructing or operating a video service network within the jurisdiction of the local government,

➥ except that a local government in a county whose population is less than 100,000 may renew or extend the term of an unexpired local franchise of an incumbent cable operator which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise;

(b) Impose any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment

for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; or

(c) Except as otherwise provided in sections 45 and 46 of this act, require the payment of any application, document, franchise, service or other fee, tax, charge or assessment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government.

Sec. 29.5. *1. In carrying out the provisions of this chapter, the Secretary of State shall charge and collect the fees set forth in this section.*

2. Except as otherwise provided in subsection 3, the filing fee for accepting any application or notice pursuant to the provisions of this chapter is $1,000.

3. The filing fee for accepting an original application for a certificate of authority pursuant to sections 33 and 34 of this act:

(a) Is $250 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000.

(b) Is $500 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (c) apply.

(c) Is $1,000 for a service area located in whole or in part within a county whose population is 100,000 or more.

4. A person may elect to apply for a certificate of authority that permits, but does not require, the person to provide video service within one or more service areas located anywhere in this State as designated in the application and affidavit filed by the person pursuant to section 33 of this act. If a person applies for such a certificate of authority, the certification fee for issuing the certificate of authority to the person pursuant to sections 33 and 34 of this act is $25,000. The Secretary of State may charge and collect the certification fee pursuant to this subsection only once from each such person.

5. If a person elects not to apply for a certificate of authority in accordance with subsection 4, the certification fee for issuing a certificate of authority to the person pursuant to sections 33 and 34 of this act or for issuing an amended certificate of authority to the person pursuant to section 35 of this act:

(a) Is $250 for a service area located entirely within the territorial boundaries of a town, township or city whose population is less than 1,000, regardless of the population of the county.

(b) Is $2,500 for a service area located entirely within the territorial boundaries of a town, township or city whose population is 1,000 or more but less than 50,000, regardless of the population of the county.

(c) Is $2,500 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000, unless the provisions of paragraph (a) or (b) apply.

(d) Is $15,000 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (a), (b) or (e) apply.

(e) Is $25,000 for a service area located in whole or in part within the territorial boundaries of a county whose population is 100,000 or more, unless the provisions of paragraph (a) or (b) apply.

6. The Secretary of State shall charge and collect the fees set forth in this section based on:

(a) The information provided in the application and affidavit filed by the person pursuant to paragraph (a) of subsection 2 of section 33 of this act; and

(b) The estimated population of each town, township, city and county in this State as set forth in the most recent annual report issued by the Department of Taxation pursuant to NRS 360.283.

7. The fees imposed by this section may not be passed through to and collected from subscribers of video service.

Sec. 30. *The provisions of this chapter must not be interpreted to:*

1. Authorize the Secretary of State to exercise oversight of video service providers except as provided in this chapter.

2. Prevent a telecommunication provider from exercising any rights or authority that the provider has as a public utility under federal or state law.

Sec. 31. *Except as otherwise provided in this chapter, a person shall not act as a video service provider or construct or operate a video service network in any service area unless the person has obtained a certificate of authority for that service area.*

Sec. 32. *1. If, on the effective date of this act, an incumbent cable operator is providing video service within a service area pursuant to a local franchise, the incumbent cable operator may elect to:*

(a) Continue to operate within that service area pursuant to the local franchise in accordance with section 32.5 of this act; or

(b) Terminate the local franchise within that service area by applying for and obtaining a certificate of authority pursuant to this section.

2. To elect to terminate a local franchise within a service area, an incumbent cable operator must, not later than 6 months after the effective date of this act, apply for a certificate of authority for that service area in the same manner as any other video service provider. If the incumbent cable operator makes such an election and obtains a certificate of authority for that service area:

(a) The local franchise for that service area is deemed to be terminated by operation of law on the date on which the Secretary of State issues the certificate of authority;

(b) Not later than 3 business days after the date on which the Secretary of State issues the certificate of authority, the incumbent cable operator shall file with the clerk of the local government which granted the franchise a written declaration that the incumbent cable operator has obtained a

certificate of authority and that the local franchise for that service area has been terminated by operation of law; and

(c) The incumbent cable operator shall operate within that service area thereafter subject only to the same requirements that apply to any other holder of a certificate.

Sec. 32.5. *1. Except as otherwise provided in subsection 2, if an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise:*

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area;

(b) The local franchise is not effective for that service area on or after the date on which the local franchise expires; and

(c) The local government may not renew or extend the term of the local franchise for that service area.

➥ *To operate within that service area on or after the date on which the local franchise expires, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires.*

2. If an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise and the service area is located entirely within the territorial boundaries of a county whose population is less than 100,000:

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area; and

(b) The local government may renew or extend the term of the local franchise for that service area, provided that the terms and conditions of the renewal or extension do not conflict with or are not otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

➥ *To operate within that service area on or after the date on which the local franchise expires without renewal or extension, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires without renewal or extension.*

Sec. 33. *1. To obtain a certificate of authority, a person must:*

(a) File with the Secretary of State an application and affidavit which are signed by one of the principal executive officers or general partners of the applicant and which comply with the provisions of this section; and

(b) Pay any fee required by section 29.5 of this act.

2. The application and affidavit must be in the form required by the Secretary of State and must contain only the following:

(a) A description of each service area designated by the applicant in which the applicant intends to provide video service and a map of each such service area that shows the territorial boundaries of each local government located, in whole or in part, within the service area.

(b) The location of the principal place of business of the applicant and the names of the principal executive officers or general partners of the applicant.

(c) Certifications that the applicant:

(1) Agrees to comply with all applicable federal and state laws and regulations;

(2) Agrees to comply with all generally applicable, nondiscriminatory local laws regarding the use and occupation of any public right-of-way or highway in the construction, operation, maintenance and repair of a video service network, including, without limitation, any local laws enacted pursuant to the police powers of the local government in which the video service network is located; and

(3) Has filed or will timely file with the Federal Communications Commission all forms required by that agency before offering video service.

3. If the Secretary of State determines that the application and affidavit are incomplete or otherwise deficient, the Secretary of State shall provide written notice to the applicant not later than 15 days after the date on which the application and affidavit are filed. The written notice must:

(a) Explain the incompleteness or deficiency in detail; and

(b) Identify with specificity the information or other items that are necessary to complete the application and affidavit properly.

4. The applicant shall provide a copy of the application and affidavit to the governing body of each local government located, in whole or in part, within each service area designated in the application. The applicant shall provide such a copy:

(a) Not later than 3 business days after the date on which the application and affidavit are first filed with the Secretary of State; and

(b) If a revised application and affidavit are filed, not later than 3 business days after the date on which the revised application and affidavit are filed with the Secretary of State.

5. The copy of the application and affidavit provided by the applicant to a governing body is for informational purposes only, and the governing body may not:

(a) Vote on or take other official action regarding the application and affidavit; or

(b) Require the applicant to obtain the approval of the governing body regarding the application and affidavit.

Sec. 34. *1. Not later than 20 days after the date on which an applicant files a completed application and affidavit pursuant to section 33 of this act*

and pays any fee required by section 29.5 of this act, the Secretary of State shall issue a certificate of authority to the applicant.

2. The certificate of authority issued by the Secretary of State is a state-issued franchise granting the holder of the certificate with the authority to:

(a) Provide video service in each service area designated in the application and affidavit filed with the Secretary of State; and

(b) Construct and operate a video service network in compliance with the provisions of this chapter and all local laws that are not in conflict or otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. The Secretary of State may not condition or limit a certificate of authority by imposing on the holder of the certificate any obligations or requirements that are not authorized by the provisions of this chapter, including, without limitation:

(a) Any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment; or

(b) Any requirements to pay any application, document, franchise, service or other fee, tax, charge or assessment that is not authorized by the provisions of this chapter.

Sec. 35. *1. If the holder of a certificate wants to add one or more new service areas to the certificate, the holder must:*

(a) File with the Secretary of State an application for an amendment to the certificate to add the new service areas; and

(b) Pay any fee required by section 29.5 of this act.

2. The application for an amendment to the certificate must contain a description of each new service area designated by the holder and a map of each new service area that shows the territorial boundaries of each local government located, in whole or in part, within the new service area.

3. The application for an amendment to the certificate is subject to the same procedures, requirements and time periods as an application for the issuance of a certificate pursuant to sections 33 and 34 of this act.

Sec. 36. *1. If the holder of a certificate wants to modify the boundaries of an existing service area authorized under the certificate, the holder must file with the Secretary of State written notice of the modification and pay any fee required by section 29.5 of this act.*

2. The holder may make the modification on the date on which it files the written notice with the Secretary of State.

Sec. 37. *1. If the holder of a certificate wants to terminate service to an existing service area authorized under the certificate, the holder must file with the Secretary of State written notice of the termination and pay any fee required by section 29.5 of this act.*

2. The holder may make the termination on the date on which it files the written notice with the Secretary of State.

Sec. 38. *1. Except as otherwise provided in this section, a certificate of authority is fully transferable to any successor-in-interest of the holder of the certificate whether the transfer to the successor-in-interest arises through merger, sale, assignment, restructuring, change of control or any other type of transaction.*

2. The holder shall file with the Secretary of State written notice of the transfer of the certificate to the successor-in-interest and pay any fee required by section 29.5 of this act not later than 10 days after the date on which the transfer is completed.

3. Before the holder may transfer its certificate to the successor-in-interest, the successor-in-interest must agree that any collective bargaining agreement entered into by the holder shall continue to be honored, paid or performed by the successor-in-interest to the same extent as would be required if the holder continued to operate under its certificate unless such continued application of the collective bargaining agreement to the successor-in-interest is prohibited or limited by the terms of the agreement or by federal or state law. Any transfer of a certificate of authority that violates the provisions of this subsection is void and unenforceable and is not valid for any purpose.

Sec. 39. *1. Not later than 24 months after the date on which the Secretary of State issues a certificate of authority pursuant to sections 33 and 34 of this act or an amended certificate of authority pursuant to section 35 of this act, the holder of the certificate must have the capability to offer and provide video service to at least one subscriber who resides within the territorial boundaries of each service area authorized by the certificate or the amended certificate.*

2. If a holder fails to comply with the provisions of subsection 1, the holder's certificate of authority shall be deemed to be revoked by operation of law without the need for any notice, hearing or action by the Secretary of State.

Sec. 40. *A holder of a certificate shall provide video service in accordance with the certifications made by the holder in each application and affidavit that the holder files with the Secretary of State pursuant to section 33 or 35 of this act.*

Sec. 40.5. *1. If a video service provider that is not an incumbent cable operator within the jurisdiction of a local government intends to construct facilities within the jurisdiction of the local government pursuant to a certificate of authority, the video service provider shall, until it has constructed all the facilities intended for the jurisdiction of the local government, prepare and submit to the local government a semiannual report which describes the number of service locations within the jurisdiction of the local government that are capable of receiving video service from the video service provider.*

2. The video service provider shall submit the report to the local government not later than 10 business days after the last day of the second and fourth calendar quarters of each year.

3. The information contained in a report that is submitted to a local government pursuant to this section:

(a) Is confidential proprietary information of the video service provider;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the local government unless the video service provider consents to the disclosure or the disclosure is made pursuant to subsection 4.

4. Upon request from the Director of the Legislative Counsel Bureau, a local government shall disclose the information contained in a report that is submitted to the local government pursuant to this section to the Director for confidential use by the Legislature and the Legislative Counsel Bureau. The information that is disclosed to the Director:

(a) Is confidential proprietary information of the video service provider;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Legislature or the Legislative Counsel Bureau unless the video service provider consents to the disclosure.

Sec. 41. *1. A video service provider shall activate and offer video service in a nondiscriminatory manner within each service area and shall not deny access to video service to any group of potential residential subscribers within a particular part of a service area because of the income profile of the persons who reside in that particular part of the service area.*

2. In providing video service, a video service provider shall comply with:

(a) The provisions of 47 U.S.C. § 551, as that section existed on January 1, 2007.

(b) The provisions of the National Electrical Safety Code, as adopted and as may be amended by the Institute of Electrical and Electronics Engineers, Inc., with regard to the video service provider's construction practices and installation of equipment.

(c) Any technical standards governing the design, construction and operation of a video service network required by federal law.

(d) The provisions of 47 C.F.R. Part 11, as adopted and as may be amended by the Federal Communications Commission, to the extent those provisions require a video service provider to participate in the Emergency Alert System.

Sec. 42. *1. A video service provider:*

(a) Shall comply with the provisions of 47 C.F.R. §§ 76.309, 76.1601 to 76.1604, inclusive, and 76.1618 to 76.1622, inclusive, as adopted and as may be amended by the Federal Communications Commission, with regard to the standards governing the quality of video service and customer service; and

(b) May not be required to comply with more stringent or different customer service obligations than those set forth in paragraph (a).

2. To facilitate the resolution of complaints regarding video service made by subscribers:

(a) A video service provider shall establish and maintain a customer service department and provide each subscriber with instructions for:

(1) Contacting the customer service department if the subscriber has a complaint regarding video service; and

(2) Contacting the local government if the video service provider does not resolve the complaint to the satisfaction of the subscriber.

➥ The video service provider shall provide such instructions to the subscriber in each bill and in any service-related notice or other direct correspondence which the video service provider sends to the subscriber and which is related to that subscriber's video service. For the purposes of this paragraph, "service-related notice or other direct correspondence" does not include general advertising, marketing, promotional or public service materials that the video service provider sends to other subscribers or the public generally.

(b) Each local government which is located in a county whose population is 25,000 or more and which collects a franchise fee pursuant to section 46 of this act shall establish a process to:

(1) Make available to the public a list of video service providers authorized to provide video service within the jurisdiction of the local government;

(2) Respond to inquiries from subscribers and disseminate information to those subscribers regarding the standards governing the quality of video service and customer service prescribed by subsection 1 and the procedures available to subscribers to resolve complaints with such video service providers;

(3) Coordinate the resolution of subscriber complaints with the customer service departments of such video service providers;

(4) Facilitate access by subscribers to procedures to seek corrective action or other redress from such video service providers for alleged violations of the customer service standards prescribed by subsection 1; and

(5) Maintain a record of the number and general subject matter of subscriber complaints against each such video service provider. The record must contain a separate listing for each such video provider and must be made available for public inspection.

3. Before a local government may take the action permitted by subsection 4 against a video service provider regarding a complaint from a subscriber:

(a) The subscriber must provide notice of the complaint to the video service provider by contacting the customer service department of the video service provider; and

(b) The video service provider must be given a period of not less than 10 business days after the date on which it receives the notice from the subscriber to resolve the complaint to the satisfaction of the subscriber.

4. If a local government has reasonable cause to believe that a video service provider has committed persistent or repeated violations of the customer service obligations that apply to the video service provider pursuant to this section, the local government may file a written complaint with the Bureau of Consumer Protection in the Office of the Attorney General pursuant to section 60 of this act.

Sec. 43. *1. A video service provider may provide telecommunication service pursuant to chapter 704 of NRS and the regulations approved by the Public Utilities Commission of Nevada for telecommunication providers.*

2. A video service provider shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing any telecommunication service that is subject to regulation by the Public Utilities Commission of Nevada.

3. A local government shall not require a video service provider to obtain a franchise from the local government to provide:

(a) Telecommunication service; or

(b) Interactive computer service,

➥ if the video service provider uses its own video service network within the jurisdiction of the local government to provide such service.

Sec. 44. (Deleted by amendment.)

Sec. 45. *1. A local government shall not require a video service provider to place its facilities in ducts or conduits or on poles owned or leased by the local government.*

2. A local government shall manage the use of any public right-of-way or highway by video service providers in a manner that:

(a) Is consistent with federal and state law and the lawful police powers of the local government; and

(b) Is competitively neutral and does not:

(1) Discriminate among video service providers; or

(2) Discriminate between video service providers and any other users of the public right-of-way or highway for the construction and operation of facilities.

3. In managing any public right-of-way or highway, a local government may:

(a) Require a video service provider that is constructing, installing, working within, maintaining or repairing facilities in, on, under or over any public right-of-way or highway to obtain a construction, encroachment or occupancy permit or license for such work; and

(b) Inspect the construction, installation, maintenance or repair work performed on such facilities.

4. If a video service provider makes a request for such a permit or license, the local government shall act upon the request not later than 10 business days after the date on which the request is made.

5. A local government may charge a video service provider a fee to issue such a permit or license or to perform any inspection authorized by this

section. The amount of any fee charged by a local government pursuant to this subsection may not exceed the actual costs incurred by the local government in administering the process of issuing such permits or licenses and performing such inspections.

6. If there is a situation necessitating emergency response work or repair in, on, under or over any public right-of-way or highway, a video service provider may begin that work or repair without prior approval from a local government if the provider notifies the local government as promptly as reasonably possible after learning of the need for that work or repair.

Sec. 46. *1. For the privilege of providing video service through a video service network that occupies or uses, in whole or in part, any public right-of-way or highway within the jurisdiction of a local government, the local government may require a video service provider to pay a franchise fee to the local government based on the gross revenue that the provider receives from its subscribers within the jurisdiction of the local government.*

2. To require the payment of the franchise fee, the governing body of the local government must adopt a nondiscriminatory ordinance or resolution that imposes the franchise fee equally and uniformly on all video service providers operating within the jurisdiction of the local government.

3. The local government shall not require a video service provider to pay a franchise fee for any year in a total amount that exceeds 5 percent of the gross revenue that the provider received during that year from its subscribers within the jurisdiction of the local government.

4. The entire amount of the franchise fee must be paid by a video service provider directly to the local government in legal tender of the United States or in a check, draft or note that is payable in legal tender of the United States.

5. A video service provider may:

(a) Pass the franchise fee through to and collect the franchise fee from its subscribers within the jurisdiction of the local government based on the gross revenue received from each such subscriber; and

(b) Designate the amount of the franchise fee collected from each subscriber as a separate line item on the subscriber's bill.

6. Except as otherwise provided in subsection 7, the franchise fee authorized by this section:

(a) Is the only fee, tax, assessment or other charge that a local government may impose on a video service provider for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; and

(b) Is in lieu of any other fee, tax, assessment or charge that may be imposed by a local government on a video service provider for its occupation or use of any public right-of-way or highway.

7. This section does not restrict the right of a local government to impose on a video service provider:

(a) The fees authorized by subsection 5 of section 45 of this act; and

(b) Any generally applicable and nondiscriminatory fees, ad valorem taxes, sales taxes or other taxes that are lawfully imposed on other businesses within the jurisdiction of the local government.

Sec. 47. *1. Not more than once every 3 years, a local government may, upon reasonable written notice, review and audit the business records of a video service provider to the extent necessary to ensure payment of a franchise fee pursuant to this chapter. If the results of such a review and audit identify an underpayment of the franchise fee in an amount that requires corrective action, the local government may perform a subsequent compliance review and audit to determine whether the video service provider has corrected the underpayment of the franchise fee. The compliance review and audit must be performed not later than 12 months after the date on which the results of the initial review and audit are submitted to the local government.*

2. The local government and the video service provider shall each pay its own costs and fees relating to each review and audit performed pursuant to subsection 1, except that if the video service provider elects to have the local government review and audit the requested business records of the video service provider at a location outside the territorial boundaries of the local government, the video service provider shall pay the per diem allowances and travel expenses incurred by the local government to perform the review and audit at that location.

3. A person who performs a review and audit pursuant to subsection 1 may not receive compensation that is based, in whole or in part, on:

(a) Finding a particular result; or

(b) The amount of any underpayment of the franchise fee that is identified as a result of the review and audit.

4. Any action to recover a disputed underpayment of a franchise fee from a video service provider must be commenced and prosecuted by the Attorney General on behalf of the affected local governments.

5. A video service provider may bring an action against a local government to recover a disputed overpayment of a franchise fee to the local government.

6. Any action to recover a disputed underpayment or overpayment of a franchise fee must be commenced in a district court not later than 4 years after the last day of the tax year to which the disputed underpayment or overpayment relates.

7. Each party shall pay its own costs and attorney's fees in commencing and prosecuting any action involving a disputed underpayment or overpayment of a franchise fee.

Sec. 48. *As used in sections 48 to 59, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 49 to 53, inclusive, have the meanings ascribed to them in those sections.*

Sec. 49. *"Hub office" means the facility and related equipment located within a video service network at which video programming is received*

directly or indirectly from national or international content providers or broadcast networks and combined with local programming and channels for signal distribution to subscribers through central offices and related transmission or transport facilities.

Sec. 50. *"Locally produced video programming" means video programming produced for a service area by:*

1. One or more natural persons who reside within the service area; or

2. Any local government, educational institution or other public or nonprofit private entity located within the service area.

Sec. 51. *"Nonrepeat locally produced video programming" includes, without limitation, the first three videocastings of an official meeting of a local government.*

Sec. 52. *"PEG access channel" means a channel that videocasts PEG access programming.*

Sec. 53. *"PEG access programming" means noncommercial public, educational and governmental video programming or the capacity for the transmission of such programming.*

Sec. 54. *For the purposes of sections 48 to 59, inclusive, of this act, a PEG access channel shall be deemed to be "substantially utilized" if at least 12 hours of PEG access programming, excluding any alpha-numeric programming, is videocast on the PEG access channel each calendar day and at least 80 percent of the PEG access programming on each calendar day is nonrepeat locally produced video programming.*

Sec. 54.5. *1. Except as otherwise provided in subsection 2, the provisions of sections 48 to 59, inclusive, of this act do not apply to any existing PEG access channel in service on the effective date of this act.*

2. The provisions of sections 48 to 59, inclusive, of this act do not prevent a video service provider from changing the channel number assigned to any PEG access channel, including, without limitation, any existing PEG access channel in service on the effective date of this act. If a video service provider intends to change the channel number assigned to any PEG access channel, the provider:

(a) Shall use good faith efforts to provide the affected local government with written notice of the change, to the extent reasonably practicable, at least 120 days before the date on which the change is to become effective; and

(b) Shall not provide such notice less than 30 days before the date on which the change is to become effective.

Sec. 55. *Except as otherwise provided in sections 48 to 59, inclusive, of this act, a holder of a certificate is not required to:*

1. Provide any network or channel capacity or free or discounted cable service or other service to any governmental entity or school, library or other public building; or

2. Furnish any funds, services, programming, facilities, staffing or equipment related to the use of PEG access channels or the production or videocasting of PEG access programming.

Sec. 56. *1. Not sooner than 12 months after the date on which an incumbent cable operator obtains a certificate of authority, the incumbent cable operator may cease providing any network or channel capacity or free or discounted cable service or other service to any governmental entity or school, library or other public building.*

2. If an incumbent cable operator ceases to provide network or channel capacity to a governmental entity, the incumbent cable operator may reclaim for its own purposes the network or channel capacity that was used by the governmental entity unless:

(a) The governmental entity uses the capacity for PEG access programming pursuant to sections 48 to 59, inclusive, of this act; or

(b) The incumbent cable operator and the governmental entity enter into a commercial agreement regarding the rates, terms and conditions for the governmental entity to continue using the network or channel capacity.

Sec. 57. *1. On or after the date on which a holder of a certificate first provides video service to at least one subscriber within the service area of a local government, the local government may request that the holder provide capacity for PEG access programming on its video service network on any service tier viewed by more than 50 percent of the subscribers in that service area. Within a reasonable period of not less than 120 days after the date on which the local government submits its request, the holder shall provide the local government with such capacity for PEG access programming subject to the provisions of sections 48 to 59, inclusive, of this act.*

2. If a video service provider did not provide capacity for PEG access programming to a local government while operating pursuant to a local franchise, the video service provider shall, after obtaining a certificate of authority, provide capacity for PEG access programming to the local government upon a request made by the local government pursuant to this section.

Sec. 58. *1. A local government that requests capacity for PEG access programming may require a holder of a certificate to designate:*

(a) Not more than two PEG access channels, if the population within the jurisdiction of the local government is less than 50,000.

(b) Not more than three PEG access channels, if the population within the jurisdiction of the local government is 50,000 or more.

2. The number of PEG access channels set forth in subsection 1 constitutes the total number of PEG access channels that the holder may be required to designate on any single video service network utilizing a single headend or hub office, or on all commonly owned video service networks that share a common headend or hub office, regardless of the number of local governments served from that headend or hub office. If more than one local government is served by a single or common headend or hub office, the

populations within the jurisdictions of all those local governments must be aggregated to determine the total number of PEG access channels under subsection 1.

3. When a local government submits its request for capacity for PEG access programming, the local government must submit information which establishes that each PEG access channel it has requested will be substantially utilized. If one or more of the PEG access channels available under subsection 1 are being used at the headend or hub office when the local government submits its request, the holder is not required to make any of the remaining PEG access channels available to the local government unless the local government submits information which establishes that all existing PEG access channels at the headend or hub office are being substantially utilized.

4. Except as otherwise provided in subsection 5, if a local government does not substantially utilize a PEG access channel made available to it pursuant this section, the holder may reclaim the channel capacity for its own purposes. After reclaiming the channel capacity, if the local government makes a request for restoration of the PEG access channel and submits to the holder information which establishes that the PEG access channel will be substantially utilized, the holder shall restore the PEG access channel to the local government unless, when the request is submitted to the holder, the maximum number of PEG access channels available under subsection 1 are being used at the headend or hub office which serves the local government. If the restoration can be made within the limits of subsection 1, the holder shall restore the PEG access channel to the local government within a reasonable period of not less than 120 days after the date on which the request is submitted to the holder.

5. The provisions of subsection 4 do not apply to the first PEG access channel which is made available to a local government that does not have a PEG access channel in service on the effective date of this act.

Sec. 59. *1. A local government receiving the benefit of a PEG access channel, or its designee, is responsible for producing the programming of that channel and for providing that programming to the holder of a certificate. The holder is responsible only for the transmission of the programming to subscribers.*

2. A local government, or its designee, shall provide to the holder all programming for a PEG access channel in a manner or form that is:

(a) Capable of being accepted and transmitted by the holder over its video service network without alteration or change in the content or transmission signal; and

(b) Compatible with the technology or protocol utilized by the holder to deliver its video service.

3. A local government shall:

(a) Make the programming for each PEG access channel available in a nondiscriminatory manner to all holders or incumbent cable operators providing video service in the service area of the local government.

(b) Provide all facilities necessary for connectivity to a single PEG access channel distribution point in the service area of the local government, except that the first 200 feet extending from the video service network for the connectivity is the responsibility of the holder.

4. Where necessary and technically feasible, holders or incumbent cable operators shall use reasonable efforts to interconnect their video service networks for the purpose of exchanging PEG access channel programming on mutually acceptable rates, terms and conditions. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable methods of connection. Holders and incumbent cable operators shall negotiate interconnection in good faith. The person requesting interconnection is responsible for any costs, including, without limitation, signal transmission from the origination point to the point of interconnection.

Sec. 60. *1. A video service provider or a local government may file with the Bureau of Consumer Protection a written complaint alleging a violation of the provisions of this chapter.*

2. Upon a written complaint filed by a video service provider or a local government pursuant to this section, the Consumer's Advocate may commence in a district court an action to enforce the provisions of this chapter and to seek equitable or declaratory relief.

3. If such an action is commenced against a video service provider and the district court determines that the provider has violated any provision of this chapter, the court shall issue an order to the provider directing the provider to take corrective action within a specified reasonable period and providing for such other equitable or declaratory relief as the court finds necessary, including, without limitation, suspending the certificate of authority held by the video service provider.

4. If the district court orders equitable or declaratory relief in an action brought by the Consumer's Advocate pursuant to this section, the court shall award the Consumer's Advocate, in an amount approved by the court, reasonable attorney's fees and costs incurred by the Consumer's Advocate in bringing the action.

5. The provisions of this section do not:

(a) Apply to any action authorized pursuant to NRS 711.265 to 711.290, inclusive, or section 47 of this act.

(b) Prevent the Bureau of Consumer Protection from enforcing any applicable provisions of chapter 598 of NRS against a video service provider.

6. As used in this section:

(a) "Bureau of Consumer Protection" means the Bureau of Consumer Protection in the Office of the Attorney General.

(b) "Consumer's Advocate" means the Consumer's Advocate of the Bureau of Consumer Protection.

Sec. 61. NRS 711.020 is hereby amended to read as follows:

711.020 [The words and phrases] *As* used in this chapter ~~[have the meanings ascribed to them]~~ *, unless the context otherwise requires, the words and terms defined* in NRS 711.030 to 711.074, inclusive, ~~[unless a different meaning clearly appears in the context.]~~ *and sections 3 to 27, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 62. NRS 711.030 is hereby amended to read as follows:

711.030 *1.* "Community antenna television company" means any person ~~[or organization which]~~ *who* owns, controls, operates or manages a community antenna television system . ~~[, except that the definition]~~

2. The term does not include:

~~[1. A telephone, telegraph]~~

(a) A telecommunication provider or electric utility regulated by the Public Utilities Commission of Nevada where the *telecommunication provider or electric* utility merely leases or rents to a community antenna television company wires or cables for the redistribution of television signals to or toward subscribers of that company; or

~~[2. A telephone or telegraph utility]~~

(b) A telecommunication provider regulated by the Public Utilities Commission of Nevada where the ~~[utility]~~ *telecommunication provider* merely provides channels of communication under published tariffs filed with that Commission to a community antenna television company for the redistribution of television signals to or toward subscribers of that company.

Sec. 63. NRS 711.040 is hereby amended to read as follows:

711.040 1. "Community antenna television system" means any facility *, or any component thereof, which is:*

(a) Located within this State ~~[which is constructed]~~ *;*

(b) Constructed in whole or in part in, on, under or over any *public right-of-way or* highway ~~[or other public place and is operated]~~ *; and*

(c) Operated to perform for hire the service of:

~~[(a)]~~ *(1)* Receiving and amplifying the signals broadcast by one or more television stations or provided for public, educational or governmental purposes and redistributing those signals by wire, cable or other means of closed transmission; or

~~[(b)]~~ *(2)* Providing two-way interactive services by wire, cable or other means of closed transmission, including, without limitation, Internet services, intranet services and electronic mail,

➥ to members of the public who subscribe to the service.

2. ~~[Such a system]~~ *The term* does not include any system which serves:

(a) Fewer than 50 subscribers; or

(b) Only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located

on the premises of those dwellings *,* if the buildings are separated by not more than one public ~~[street or]~~ right-of-way ~~[.]~~ *or highway.*

3. As used in this section, "apartment dwelling" does not include a hotel, motel, condominium, town house or other similar dwelling.

Sec. 64. NRS 711.060 is hereby amended to read as follows:

711.060 "Facility" means all real property, antennae, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a ~~[community antenna television company]~~ *video service provider* to provide service to its subscribers.

Sec. 65. NRS 711.074 is hereby amended to read as follows:

711.074 *1.* "Local government" means any city or county . ~~[which has the power to grant a franchise under NRS 711.190.]~~

2. The term includes, without limitation:

(a) Any entity or agency that is directly or indirectly controlled by any city or county; and

(b) Any entity or agency that is created by joint action or any interlocal or cooperative agreement of two or more cities or counties, or any combination thereof.

Sec. 66. NRS 711.175 is hereby amended to read as follows:

711.175 1. Except as otherwise provided in subsection 2 and NRS 318.1192 *:* ~~[, 318.1193 and 318.1194:]~~

(a) The governing body of a county whose population is 50,000 or more, and any entity or agency that is directly or indirectly controlled by such a county, shall not sell ~~[the services of a community antenna television system]~~ *video service* to the general public.

(b) The governing body of a city whose population is 25,000 or more, and any entity or agency that is directly or indirectly controlled by such a city, shall not sell ~~[the services of a community antenna television system]~~ *video service* to the general public.

2. If the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by such a county or city, was selling ~~[the services of a community antenna television system]~~ *video service* to the general public on April 1, 2003, it may continue to sell ~~[the services of a community antenna television system]~~ *video service* to the general public after that date, regardless of the population of the county or city.

Sec. 67. NRS 711.178 is hereby amended to read as follows:

711.178 1. If the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~[the services of a community antenna television system]~~ *video service* to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~[community antenna television system]~~ *video service network* in any area outside its territorial boundaries unless it:

(a) Obtains a ~~[franchise from the appropriate governing body pursuant to NRS 711.190]~~ *certificate of authority* for that portion of the ~~[community~~

~~antenna television system]~~ *video service network* which it constructs, owns, manages or operates outside its territorial boundaries; and

(b) Complies with the same federal, state and local requirements that apply to a privately held ~~[community antenna television company]~~ *video service provider* with regard to that portion of the ~~[community antenna television system]~~ *video service network* which it constructs, owns, manages or operates outside its territorial boundaries.

2. ~~[On and after October 1, 2003, if]~~ *If* the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~[the services of a community antenna television system]~~ *video service* to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~[community antenna television system]~~ *video service network* in any area within its territorial boundaries which is governed by another governing body and which is served by one or more privately held ~~[community antenna television companies]~~ *video service providers* unless it:

(a) Obtains a ~~[franchise from the other governing body pursuant to NRS 711.190 or enters into an interlocal agreement with the other governing body;]~~ *certificate of authority for that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;*

(b) Is required by the ~~[franchise or interlocal agreement]~~ *certificate of authority* to comply with the same *federal, state and local* requirements that apply to the privately held ~~[community antenna television companies;]~~ *video service providers with regard to that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;* and

(c) Is prohibited by the ~~[franchise or interlocal agreement]~~ *certificate of authority* from providing the services of the ~~[community antenna television system,]~~ *video service provider,* free of charge, to any governmental officer or employee for his personal or household use.

3. The provisions of this section do not require the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by the county or city, to obtain a certificate of authority for a service area if it is providing video service as an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within that service area pursuant to the local franchise.

Sec. 68. NRS 711.240 is hereby amended to read as follows:

711.240 1. Except with respect to reasonable promotional activities, a ~~[person]~~ *video service provider* shall not advertise, offer to provide or provide any *video* service to subscribers ~~[of television services]~~ at a rate, including any rebate, less than the cost to the ~~[company]~~ *video service provider* to provide ~~[the service which is advertised, offered or provided]~~ *that service* with the intent to:

(a) Impair fair competition or restrain trade among ~~[companies]~~ *video service providers* which provide ~~[services]~~ *video service* in the same area; or

(b) Create a monopoly.

2. For the purposes of this section, "cost" means the expense of doing business including, without limitation, expenses for labor, rent, depreciation, interest, maintenance, delivery of the *video* service, franchise fees, taxes, insurance and advertising.

3. ~~[A community antenna television company may offer any telecommunication or related services which are offered in the same area by a telephone company, pursuant to chapter 704 of NRS and regulations approved by the Public Utilities Commission of Nevada for providers of similar services. A community antenna television company shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing telecommunication or related services which are subject to regulation by the Public Utilities Commission of Nevada.~~

~~4.]~~ A violation of subsection 1 constitutes a prohibited act under NRS 598A.060. The Attorney General and any other person may exercise the powers conferred by that chapter to prevent, remedy or punish such a violation. The provisions of chapter 598A of NRS apply to any such violation.

Sec. 69. NRS 711.255 is hereby amended to read as follows:

711.255 1. A landlord shall not:

(a) Interfere with the receipt of service by a tenant from a ~~[community antenna television company]~~ *video service provider* or discriminate against a tenant for receiving ~~[such a company's service.]~~ *service from a video service provider.*

(b) Except as otherwise provided in subsection 3, demand or accept payment of any fee, charge or valuable consideration from a ~~[community antenna television company]~~ *video service provider* or a tenant in exchange for granting access to the ~~[community antenna television company]~~ *provider* to provide ~~[its services]~~ *service* to the tenant.

2. A ~~[community antenna television company]~~ *video service provider* which desires to provide ~~[such services]~~ *service* to a tenant shall give 30 days' written notice of that desire to the landlord before the ~~[company]~~ *provider* takes any action to provide that service. Before authorizing the receipt of such service a landlord may:

(a) Take such reasonable steps as are necessary to ensure that the safety, function and appearance of the premises and the convenience and safety of persons on the property are not adversely affected by the installation, construction, operation or maintenance of the facilities necessary to provide the service, and is entitled to be reimbursed by the ~~[community antenna television company]~~ *provider* for the reasonable expenses incurred;

(b) Require that the cost of the installation, construction, operation, maintenance or removal of the necessary facilities be borne by the ~~[community antenna television company;]~~ *provider;* and

(c) Require the ~~[community antenna television company]~~ *provider* to provide evidence that the ~~[company]~~ *provider* will indemnify the landlord for any damage caused by the installation, construction, operation, maintenance or removal of the facilities.

3. A landlord is entitled to receive reasonable compensation for any direct adverse economic effect resulting from granting access to a ~~[community antenna television company.]~~ *video service provider.* There is a rebuttable presumption that the direct adverse economic effect resulting from granting access to the real property of the landlord is $1,000 or $1 for each dwelling unit thereon, whichever sum is greater. If a landlord intends to require the payment of such compensation in an amount exceeding that sum, the landlord shall notify the ~~[community antenna television company]~~ *provider* in writing of that intention. If the ~~[company]~~ *provider* does not receive such a notice within 20 days after the landlord is notified by the ~~[company]~~ *provider* that a tenant has requested the ~~[company]~~ *provider* to provide ~~[its services]~~ *service* to the tenant on the landlord's premises, the landlord may not require compensation for access to that tenant's dwelling unit in an amount exceeding $1,000. If within 30 days after receiving a landlord's request for compensation in an amount exceeding $1,000, the ~~[company]~~ *provider* has not agreed to pay the requested amount or an amount mutually acceptable to the ~~[company]~~ *provider* and the landlord, the landlord may petition a court of competent jurisdiction to set a reasonable amount of compensation for the damage of or taking of his real property. Such an action must be filed within 6 months after the date the ~~[company]~~ *provider* completes construction.

4. In establishing the amount which will constitute reasonable compensation for any damage or taking *claim* by a landlord in excess of the sum established by rebuttable presumption pursuant to subsection 3, the court shall consider:

(a) The extent to which the ~~[community antenna television company's]~~ facilities *of the video service provider* physically occupy the premises;

(b) The actual long-term damage which the ~~[company's]~~ facilities *of the video service provider* may cause to the premises;

(c) The extent to which the ~~[company's]~~ facilities *of the video service provider* would interfere with the normal use and enjoyment of the premises; and

(d) The diminution or enhancement in value of the premises resulting from the availability of the service.

~~[➥ The court may also award to the prevailing party reasonable attorney's fees.]~~

5. The ~~[company's]~~ right *of a video service provider* to construct, install or repair its facilities and maintain its services within and upon the landlord's premises is not affected or impaired because the landlord requests compensation in an amount exceeding the sum established by rebuttable

presumption pursuant to subsection 3, or files an action to assert a specific claim against the ~~[company.]~~ *provider*.

6. A ~~[community antenna television company]~~ *video service provider* shall not offer a special discount or other benefit to a particular group of tenants as an incentive *for those tenants* to request ~~[the company's services,]~~ *service from the provider,* unless the same discount or benefit is offered generally in the county.

7. ~~[The community antenna television company and the]~~ *A video service provider and a* landlord shall negotiate in good faith for the purchase of the landlord's existing cable facilities rather than for the construction of new facilities on the premises.

8. As used in this section, "landlord" means an owner of real property, or his authorized representative, who provides a dwelling unit on the real property for occupancy by another for valuable consideration. The term includes, without limitation, the lessor of a mobile home lot and the lessor or operator of a mobile home park.

Sec. 70. NRS 711.265 is hereby amended to read as follows:

711.265 1. Any person who:

(a) By the attachment of a ground wire, or by any other contrivance, willfully destroys the insulation of a ~~[telecommunications line of a community antenna television company,]~~ *wire, cable, conduit, line or similar facility of a video service provider* or interrupts the transmission of the electric current through ~~[the line;]~~ *such a wire, cable, conduit, line or similar facility;*

(b) Willfully interferes with the use of ~~[any such line,]~~ *such a wire, cable, conduit, line or similar facility* or obstructs or postpones the transmission of any message *or signal* over ~~[the line;]~~ *such a wire, cable, conduit, line or similar facility;* or

(c) Procures or advises any such injury, interference or obstruction,

➥ is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of any property damaged, altered, removed or destroyed and in no event less than a misdemeanor.

2. Any person who violates the provisions of subsection 1 is, in addition to the penalty set forth in that subsection, liable to the ~~[community antenna television company]~~ *video service provider* injured by such conduct in a civil action for all damages occasioned thereby.

Sec. 71. NRS 711.270 is hereby amended to read as follows:

711.270 1. It is unlawful for a person knowingly , ~~[and]~~ with the intent to intercept or receive a program or other service provided by a ~~[community antenna television company,]~~ *video service provider and* without the authorization of the ~~[company,]~~ *provider,* to:

(a) Make a connection or attach a device to a line or other ~~[component of a community antenna television company;]~~ *facility of the provider;*

(b) Purchase or possess a device or kit designed to intercept or receive a program or other service provided by the ~~[community antenna television company;]~~ *provider;*

(c) Make or maintain a modification to a device installed by or with the authorization of ~~[a community antenna television company]~~ *the provider* to intercept or receive a program or other service provided by the ~~[community antenna television company;]~~ *provider;* or

(d) Manufacture, import, distribute, advertise, sell, lease, offer to sell or lease, or possess with the intent to sell or lease a device designed to decode, descramble, intercept or otherwise make intelligible a signal encoded by ~~[a community antenna television company.]~~ *the provider.*

2. Unless a greater penalty is provided in NRS 711.265:

(a) Except as otherwise provided in paragraph (b), a person who violates paragraph (a), (b) or (c) of subsection 1 is guilty of a misdemeanor.

(b) A person who violates paragraph (a), (b) or (c) of subsection 1 for commercial advantage, whether direct or indirect, is guilty of a gross misdemeanor.

(c) A person who violates paragraph (d) of subsection 1:

(1) If the violation involves nine or fewer devices, is guilty of a gross misdemeanor.

(2) If the violation involves 10 or more devices, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 72. NRS 711.280 is hereby amended to read as follows:

711.280 1. A person who violates paragraph (a), (b) or (c) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the ~~[community antenna television company]~~ *video service provider* injured by the conduct for $3,500 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

2. A person who violates paragraph (d) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the ~~[community antenna television company]~~ *video service provider* injured by the conduct for $5,000 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

3. In any action brought pursuant to this section, proof that any of the acts prohibited in subsection 1 were committed on or about the premises occupied by the defendant is prima facie evidence that such acts were committed by the defendant.

4. ~~[An owner or operator of a community antenna television company]~~ *A video service provider* may bring an action to enjoin any violation of NRS 711.270.

Sec. 73. NRS 37.010 is hereby amended to read as follows:

37.010 Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public purposes:

1. Federal activities. All public purposes authorized by the Government of the United States.

2. State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

3. County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

4. Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

5. Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Mining, smelting and related activities. Mining, smelting and related activities as follows:

(a) Mining and related activities, which are recognized as the paramount interest of this State.

(b) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the working, reclamation or dewatering of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipelines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

7. Byroads. Byroads leading from highways to residences and farms.

8. Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

9. Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

10. Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

11. Cemeteries, public parks. Cemeteries or public parks.

12. Pipelines of beet sugar industry. Pipelines to conduct any liquids connected with the manufacture of beet sugar.

13. Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

14. Aviation. Airports, facilities for air navigation and aerial rights-of-way.

15. Monorails. Monorails and any other overhead or underground system used for public transportation.

16. ~~[Community antenna television companies. Community antenna television companies which have been granted a franchise from the governing body of the jurisdictions in which they provide services.]~~ *Video service providers. Video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network.* The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

(a) It creates no substantial detriment to the service provided by the utility;

(b) It causes no irreparable injury to the utility; and

(c) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

17. Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

Sec. 74. NRS 118B.0195 is hereby amended to read as follows:

118B.0195 "Utility" includes ~~[a]~~ *:*

1. A public utility which provides:

~~[1.]~~ *(a)* Electricity;

~~[2.]~~ *(b)* Natural gas;

~~[3.]~~ *(c)* Liquefied petroleum gas;

~~[4. Cable television;~~

~~5.]~~ *(d)* Sewer services;

~~[6.]~~ *(e)* Garbage collection; or

~~[7.]~~ *(f)* Water.

2. A video service provider which provides video service pursuant to chapter 711 of NRS.

Sec. 75. NRS 205.0829 is hereby amended to read as follows:

205.0829 "Services" includes labor, professional services, transportation, cable television ~~[,]~~ *or other video service,* telephone, gas or electricity services, accommodations in hotels, restaurants, leased premises or elsewhere, admissions to exhibitions and the use of vehicles or other movable property.

Sec. 76. NRS 205.4743 is hereby amended to read as follows:

205.4743 1. "Information service" means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound by means of any component, device, equipment, system or network, including, without limitation, by means of:

(a) A computer, computer system, computer network, modem or scanner.

(b) A telephone, cellular phone, satellite phone, pager, personal communications device or facsimile machine.

(c) Any type of transmitter or receiver.

(d) Any other component, device, equipment, system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.

2. The term does not include ~~[a community antenna television company,]~~ *video service,* as defined in ~~[NRS 711.030.]~~ *section 25 of this act.*

Sec. 76.3. NRS 228.340 is hereby amended to read as follows:

228.340 1. Except as otherwise provided by NRS 598A.260, all money collected by the Bureau of Consumer Protection pursuant to NRS 704.033 *and chapter 711 of NRS* and *pursuant* to those provisions *of NRS* relating to private investigators and unfair trade practices must be deposited with the State Treasurer for credit to the Account for the Bureau of Consumer Protection.

2. Money in the Account may be used only to defray the costs of maintaining the Office of the Consumer's Advocate and for carrying out the provisions of NRS 228.300 to 228.390, inclusive.

3. All claims against the Account must be paid as other claims against the State are paid.

Sec. 76.5. NRS 228.380 is hereby amended to read as follows:

228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C ~~[and]~~ *,* 599B *and 711* of NRS.

2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in ~~[chapters]~~ *:*

(a) Chapters 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities ~~[.~~

~~2.]~~ *; or*

(b) Chapter 711 of NRS.

3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

~~[3.]~~ *4.* The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.

Sec. 77. NRS 244.186 is hereby amended to read as follows:

244.186 1. If the governing body of a county is authorized pursuant to NRS 711.175 to sell video ~~[programming services]~~ *service* to the general public over a ~~[community antenna television system,]~~ *video service network,* the governing body, and any entity or agency that is directly or indirectly controlled by the county, shall not do any of the following:

(a) Sell such video ~~[programming services]~~ *service* at a price that is less than the actual cost of the video ~~[programming services]~~ *service* or sell a bundle of services containing such video ~~[programming services]~~ *service* at a price that is less than the actual cost of the bundle of services.

(b) Use any money from the county general fund for the provision of such video ~~[programming services]~~ *service* over its ~~[community antenna television system.]~~ *video service network.*

(c) Use its rights-of-way, its property or any special power it may possess by virtue of its status as a government or a government-owned utility to:

(1) Create a preference or advantage for its ~~[community antenna television system;]~~ *video service network;* or

(2) Impose any discriminatory burden on any privately held ~~[community antenna television company.]~~ *video service provider.*

2. The provisions of this section must be enforced in the manner set forth in paragraph (c) of subsection 4 of NRS 354.624 and paragraph (c) of subsection 5 of NRS 354.624.

3. The provisions of this section do not create an exclusive remedy and do not abrogate or limit any other action or remedy that is available to the governing body or a privately held ~~[community antenna television company]~~ *video service provider* pursuant to any other statute or the common law.

4. As used in this section:

(a) ~~["Community antenna television company"]~~ *"Video service"* has the meaning ascribed to it in ~~[NRS 711.030.~~

~~(b) "Community antenna television system" has the meaning ascribed to it in NRS 711.040.~~

~~(c) "Video programming services" means services which are provided over a community antenna television system and which contain:~~

~~(1) Programming provided by a television broadcast station; or~~

~~(2) Programming that is generally considered comparable to programming provided by a television broadcast station.]~~ *section 25 of this act.*

(b) "Video service network" has the meaning ascribed to it in section 26 of this act.

(c) "Video service provider" has the meaning ascribed to it in section 27 of this act.

Sec. 78. NRS 271.204 is hereby amended to read as follows:

271.204 "Service facilities" means any works or improvements used or useful in providing:

1. Electric or communication service; or

2. Service from a ~~[community antenna television system]~~ *video service network,* as that term is defined in ~~[NRS 711.040,]~~ *section 26 of this act,*

➥ including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances.

Sec. 79. NRS 271.2045 is hereby amended to read as follows:

271.2045 "Service provider" means:

1. A person or corporation subject to the jurisdiction of the Public Utilities Commission of Nevada that provides electric or communication service to the public; and

2. A ~~[community antenna television company]~~ *video service provider,* as that term is defined in ~~[NRS 711.030]~~ *section 27 of this act,* that provides service from a ~~[community antenna television system,]~~ *video service network,*

➥ by means of service facilities.

Sec. 80. NRS 271.850 is hereby amended to read as follows:

271.850 1. The service facilities within the boundaries of each lot within a district to finance an underground conversion project established pursuant to NRS 271.800 must be placed underground at the same time as or after the underground system in private easements and public places is placed underground. The service provider involved, directly or through a contractor, shall, in accordance with the rules and regulations of the service provider, but subject to the regulations of the Public Utilities Commission of Nevada and any other applicable laws, ordinances, rules or regulations of the municipality or any other public agency under the police power, convert to underground its facilities on any such lot:

(a) For service facilities that provide electric service, up to the service entrance.

(b) For service facilities that provide communication service or service from a ~~[community antenna television system]~~ *video service network,* as that term is defined in ~~[NRS 711.040,]~~ *section 26 of this act,* up to the connection point within the house or structure.

2. All costs or expenses of conversion must be included in the cost on which the cost of the underground conversion for that property is calculated.

3. As used in this section, "lot" includes any portion, piece or parcel of land.

Sec. 81. NRS 278.329 is hereby amended to read as follows:

278.329 A governing body or its authorized representative may relieve a person who proposes to divide land pursuant to NRS 278.360 to 278.460, inclusive, or 278.471 to 278.4725, inclusive, from the requirement to dedicate easements to public utilities that provide gas, electric, telecommunications, water and sewer services and any ~~[franchised community antenna television companies]~~ *video service providers* pursuant to paragraph (d) or (e) of subsection 9 of NRS 278.372 or paragraph (c) or (d) of subsection 4 of NRS 278.472 if the person demonstrates to the public body or its authorized representative that there is not an essential nexus to the public purpose for the dedication and the dedication is not roughly proportional in nature and extent to the impact of the proposed development.

Sec. 82. NRS 278.372 is hereby amended to read as follows:

278.372 1. The final map must be clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the final map with permanent black ink.

2. The size of each sheet of the final map must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

3. The scale of the final map must be large enough to show all details clearly. The final map must have a sufficient number of sheets to accomplish this end.

4. Each sheet of the final map must indicate its particular number, the total number of sheets in the final map and its relation to each adjoining sheet.

5. The final map must show all surveyed and mathematical information and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing thereon, including the bearings and distances of straight lines, central angle, radii and arc length for all curves and such information as may be necessary to determine the location of the centers of curves.

6. Each lot must be numbered or lettered.

7. Each street must be named and each block may be numbered or lettered.

8. The exterior boundary of the land included within the subdivision must be indicated by graphic border.

9. The final map must show:

(a) The definite location of the subdivision, particularly its relation to surrounding surveys.

(b) The area of each lot and the total area of the land in the subdivision in the following manner:

(1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or

(2) In square feet if the area is less than 2 acres.

(c) Any roads or easements of access which the owner intends to offer for dedication.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ *video service providers that are authorized pursuant to chapter 711 of NRS* to operate a ~~[community antenna television system]~~ *video service network* in that area.

(e) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

10. The final map for a condominium must also indicate, for the purpose of assessing taxes, whether any garage units, parking spaces or storage units may be conveyed separately from the units within the condominium or are parceled separately from those units. As used in this subsection, "condominium" has the meaning ascribed to it in NRS 116.027.

11. The final map must also satisfy any additional survey and map requirements, including the delineation of Nevada state plane coordinates established pursuant to chapter 327 of NRS, for any corner of the subdivision or any other point prescribed by the local ordinance.

Sec. 83. NRS 278.374 is hereby amended to read as follows:

278.374 1. Except as otherwise provided in subsection 2, a final map presented for filing must include a certificate signed and acknowledged, in the manner provided in NRS 240.1665 or 240.167, by each person who is an owner of the land:

(a) Consenting to the preparation and recordation of the final map.

(b) Offering for dedication that part of the land which the person wishes to dedicate for public use, subject to any reservation contained therein.

(c) Reserving any parcel from dedication.

(d) Granting any permanent easement for utility or ~~[community antenna television cable]~~ *video service network* installation or access, as designated on the final map, together with a statement approving such easement, signed by the public utility, ~~[community antenna television company]~~ *video service provider* or person in whose favor the easement is created or whose services are required.

2. If the map presented for filing is an amended map of a common-interest community, the certificate need only be signed and acknowledged by a person authorized to record the map under chapter 116 of NRS.

3. A final map of a common-interest community presented for recording and, if required by local ordinance, a final map of any other subdivision presented for recording must include:

(a) A report from a title company in which the title company certifies that it has issued a guarantee for the benefit of the local government which lists the names of:

(1) Each owner of record of the land to be divided; and

(2) Each holder of record of a security interest in the land to be divided, if the security interest was created by a mortgage or a deed of trust.

➥ The guarantee accompanying a final map of a common-interest community must also show that there are no liens of record against the common-interest community or any part thereof for delinquent state, county, municipal, federal or local taxes or assessments collected as taxes or special assessments.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a), to the preparation and recordation of the final map. A holder of record may consent by signing:

(1) The final map; or

(2) A separate document that is filed with the final map and declares his consent to the division of land.

4. For the purpose of this section, the following shall be deemed not to be an interest in land:

(a) A lien for taxes or special assessments.

(b) A trust interest under a bond indenture.

5. As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of NRS 692A.120.

Sec. 84. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; and

(b) Pay a filing fee of no more than $750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ *video service providers that are authorized pursuant to chapter 711 of NRS* to operate a ~~[community antenna television system]~~ *video service network* in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

Sec. 85. NRS 278.472 is hereby amended to read as follows:

278.472 1. After the planning commission or the governing body or its authorized representative has approved the tentative map or waived the requirement of its filing, or 60 days after the date of its filing, whichever is earlier, the person who proposes to divide the land may file a final map of the division with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

2. This map must be:

(a) Entitled "Map of Division into Large Parcels."

(b) Filed with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission not later than 1 year after the date that the tentative map was first filed with the planning commission or the governing body or its authorized representative or that the requirement of its filing was waived.

(c) Prepared by a professional land surveyor.

(d) Based upon an actual survey by the preparer and show the date of the survey and contain the certificate of the surveyor required pursuant to NRS 278.375.

(e) Clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for this purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink.

(f) Twenty-four by 32 inches in size with a marginal line drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

(g) Of scale large enough to show clearly all details.

3. The particular number of the sheet and the total number of sheets comprising the map must be stated on each of the sheets, and its relation to each adjoining sheet must be clearly shown.

4. This map must show and define:

(a) All subdivision lots by the number and actual acreage of each lot.

(b) Any roads or easements of access which exist and which the owner intends to offer for dedication, any roads or easements of access which are

shown on the applicable master plan and any roads or easements of access which are specially required by the planning commission or the governing body or its authorized representative.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ *video service providers that are authorized pursuant to chapter 711 of NRS* to operate a ~~[community antenna television system]~~ *video service network* in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

Sec. 86. NRS 318.1192 is hereby amended to read as follows:

318.1192 In the case of a district created wholly or in part for acquiring television maintenance facilities, the board shall have power to:

1. Acquire television broadcast, transmission and relay improvements ~~[.]~~ *and construct and operate a video service network pursuant to chapter 711 of NRS.*

2. Levy special assessments against specially benefited real property on which are located television receivers operated within the district and able to receive television broadcasts supplied by the district.

3. Fix tolls, rates and other service or use charges for services furnished by the district or facilities of the district, including, without limitation, any one, all or any combination of the following:

(a) Flat rate charges;

(b) Charges classified by the number of receivers;

(c) Charges classified by the value of property served by television receivers;

(d) Charges classified by the character of the property served by television receivers;

(e) Minimum charges;

(f) Stand-by charges; or

(g) Other charges based on the availability of service.

4. The district shall not have the power in connection with the basic power stated in this section to borrow money which loan is evidenced by the issuance of any general obligation bonds or other general obligations of the district.

Sec. 87. NRS 354.59881 is hereby amended to read as follows:

354.59881 As used in NRS 354.59881 to 354.59889, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[354.598811]~~ *354.598812* to 354.598818, inclusive, have the meanings ascribed to them in those sections.

Sec. 88. NRS 354.598814 is hereby amended to read as follows:

354.598814 "Fee" means a charge imposed by a city or county upon a public utility for a business license, franchise or right-of-way over streets or other public areas, except ~~[~~:

~~1. Any]~~ *any* charge paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270 . ~~[~~; ~~or~~

~~2. A term or condition of a franchise granted by:~~

~~(a) A county whose population is 400,000 or more, or by an incorporated city that is located in whole or in part within such a county, that requires a community antenna television company to provide channels for public, educational or governmental access.~~

~~(b) A county or an incorporated city not specified in paragraph (a) that requires a community antenna television company to provide channels, facilities or equipment for public, educational or governmental access.]~~

Sec. 89. NRS 354.598817 is hereby amended to read as follows:

354.598817 *1.* "Public utility" includes ~~[~~:

~~1. A]~~ *a* person or local government that:

(a) Provides electric energy or gas, whether or not the person or local government is subject to regulation by the Public Utilities Commission of Nevada;

(b) Is a telecommunication carrier as that term is defined in 47 U.S.C. § 153 on July 16, 1997, if the person or local government holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada and derives intrastate revenue from the provision of telecommunication service to retail customers; or

(c) Sells or resells personal wireless services.

2. ~~[A community antenna television company as that term is]~~ *The term does not include a video service provider, as* defined in ~~[NRS 711.030.]~~ *section 27 of this act.*

Sec. 90. NRS 354.598818 is hereby amended to read as follows:

354.598818 "Revenue" does not include:

1. Any proceeds from the interstate sale of natural gas to a provider of electric energy that holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada; *or*

2. Any revenue of a provider of a telecommunication service other than intrastate revenue that the provider collects from retail customers . ~~[~~; ~~or~~

~~3. The amount deducted from the gross revenue of a community antenna television company pursuant to paragraph (b) of subsection 2 of NRS 711.200.]~~

Sec. 91. NRS 354.5989 is hereby amended to read as follows:

354.5989 1. A local government shall not increase any fee for a business license or adopt a fee for a business license issued for revenue or regulation, or both, except as permitted by this section. This prohibition does not apply to fees:

(a) Imposed by hospitals, county airports, airport authorities, convention authorities, the Las Vegas Valley Water District or the Clark County Sanitation District;

(b) Imposed on public utilities for the privilege of doing business pursuant to a franchise;

(c) *Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;*

(d) For business licenses which are calculated as a fraction or percentage of the gross revenue of the business;

~~[(d)]~~ *(e)* Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182; or

~~[(e)]~~ *(f)* Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

2. The amount of revenue the local government derives or is allowed to derive, whichever is greater, from all fees for business licenses except:

(a) The fees excluded by subsection 1, for the fiscal year ended on June 30, 1991; and

(b) The fees collected for a particular type of business during the immediately preceding fiscal year ending on June 30 that a local government will not collect in the next subsequent fiscal year,

➥ is the base from which the maximum allowable revenue from such fees must be calculated for the next subsequent fiscal year. To the base must be added the sum of the amounts respectively equal to the product of the base multiplied by the percentage increase in the population of the local government added to the percentage increase in the Consumer Price Index for the year ending on December 31 next preceding the year for which the limit is being calculated. The amount so determined becomes the base for computing the allowed increase for each subsequent year.

3. A local government may not increase any fee for a business license which is calculated as a fraction or percentage of the gross revenue of the business if its total revenues from such fees have increased during the preceding fiscal year by more than the increase in the Consumer Price Index during that preceding calendar year. The provisions of this subsection do not apply to a fee ~~[imposed]~~ *:*

(a) Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

(b) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182 ~~[, or regulated]~~ *; or*

(c) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

4. A local government may submit an application to increase its revenue from fees for business licenses beyond the amount allowable pursuant to this section to the Nevada Tax Commission, which may grant the application only if it finds that the rate of a business license of the local government is substantially below that of other local governments in the State.

5. The provisions of this section apply to a business license regardless of the fund to which the revenue from it is assigned. An ordinance or resolution enacted by a local government in violation of the provisions of this section is void.

6. As used in this section, "fee for a business license" does not include a tax imposed on the revenues from the rental of transient lodging.

Sec. 92. NRS 360.825 is hereby amended to read as follows:

360.825 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government acquires from another entity a public utility that provides electric service, natural gas service, telecommunications service or community antenna television *, cable television or other video* service:

(a) The local government shall make payments in lieu of and equal to all state and local taxes and franchise fees from which the local government is exempt but for which the public utility would be liable if the public utility was not owned by a governmental entity; and

(b) The Nevada Tax Commission shall, solely for the purpose set forth in this paragraph, annually determine and apportion the assessed valuation of the property of the public utility. For the purpose of calculating any allocation or apportionment of money for distribution among local governments pursuant to a formula required by state law which is based partially or entirely on the assessed valuation of taxable property:

(1) The property of the public utility shall be deemed to constitute taxable property to the same extent as if the public utility was not owned by a governmental entity; and

(2) To the extent that the property of the public utility is deemed to constitute taxable property pursuant to this paragraph:

(I) The assessed valuation of that property must be included in that calculation as determined and apportioned by the Nevada Tax Commission pursuant to this paragraph; and

(II) The payments required by paragraph (a) in lieu of any taxes that would otherwise be required on the basis of the assessed valuation of that property shall be deemed to constitute payments of those taxes.

2. The payments in lieu of taxes and franchise fees required by subsection 1 are due at the same time and must be collected, accounted for and distributed in the same manner as those taxes and franchise fees would be due, collected, accounted for and distributed if the public utility was not owned by a governmental entity, except that no lien attaches upon any property or money of the local government by virtue of any failure to make all or any part of those payments. The local government may contest the validity and amount of any payment in lieu of a tax or franchise fee to the same extent as if that payment was a payment of the tax or franchise fee itself. The payments in lieu of taxes and franchise fees must be reduced if and to the extent that such a contest is successful.

3. The provisions of this section do not:

(a) Apply to the acquisition by a local government of a public utility owned by another governmental entity, except a public utility owned by another local government for which any payments in lieu of state or local taxes or franchise fees was required before its acquisition as provided in this section.

(b) Require a local government to make any payments in lieu of taxes or franchise fees to the extent that the making of those payments would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(c) Require a county to duplicate any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 93. NRS 360.830 is hereby amended to read as follows:

360.830 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government:

(a) Acquires from another entity a public utility that provides water service or sewer service; or

(b) Expands facilities for the provision of water service, sewer service, electric service, natural gas service, telecommunications service or community antenna television *, cable television or other video* service, and the expansion results in the local government serving additional retail customers who were, before the expansion, retail customers of a public utility which provided that service,

➥ the local government shall enter into an interlocal agreement with each affected local government to compensate the affected local government each fiscal year, as nearly as practicable, for the amount of any money from state and local taxes and franchise fees and from payments in lieu of those taxes and franchise fees, and for any compensation from a local government pursuant to this section, the affected local government would be entitled to receive but will not receive because of the acquisition of that public utility or expansion of those facilities as provided in this section.

2. An affected local government may waive any or all of the compensation to which it may be entitled pursuant to subsection 1.

3. The provisions of this section do not require a:

(a) Local government to provide any compensation to an affected local government to the extent that the provision of that compensation would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or expansion of those facilities, or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(b) County to duplicate any compensation an affected local government receives from any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 94. NRS 361.320 is hereby amended to read as follows:

361.320 1. At the regular session of the Nevada Tax Commission commencing on the first Monday in October of each year, the Nevada Tax Commission shall examine the reports filed pursuant to NRS 361.318 and establish the valuation for assessment purposes of any property of an interstate or intercounty nature used directly in the operation of all interstate or intercounty railroad, sleeping car, private car, natural gas transmission and distribution, water, telephone, scheduled and unscheduled air transport, electric light and power companies, and the property of all railway express companies operating on any common or contract carrier in this State. This valuation must not include the value of vehicles as defined in NRS 371.020.

2. Except as otherwise provided in subsections 3, 4 and 7 and NRS 361.323, the Nevada Tax Commission shall establish and fix the valuation of all physical property used directly in the operation of any such business of any such company in this State, as a collective unit. If the company is operating in more than one county, on establishing the unit valuation for the collective property, the Nevada Tax Commission shall then determine the total aggregate mileage operated within the State and within its several counties and apportion the mileage upon a mile-unit valuation basis. The number of miles apportioned to any county are subject to assessment in that county according to the mile-unit valuation established by the Nevada Tax Commission.

3. After establishing the valuation, as a collective unit, of a public utility which generates, transmits or distributes electricity, the Nevada Tax Commission shall segregate the value of any project in this State for the generation of electricity which is not yet put to use. This value must be assessed in the county where the project is located and must be taxed at the same rate as other property.

4. After establishing the valuation, as a collective unit, of an electric light and power company that places a facility into operation on or after July 1, 2003, in a county whose population is less than 100,000, the Nevada Tax Commission shall segregate the value of the facility from the collective unit. This value must be assessed in the county where the facility is located and taxed at the same rate as other property.

5. The Nevada Tax Commission shall adopt formulas and incorporate them in its records, providing the method or methods pursued in fixing and establishing the taxable value of all property assessed by it. The formulas must be adopted and may be changed from time to time upon its own motion or when made necessary by judicial decisions, but the formulas must in any event show all the elements of value considered by the Nevada Tax Commission in arriving at and fixing the value for any class of property assessed by it. These formulas must take into account, as indicators of value,

the company's income and the cost of its assets, but the taxable value may not exceed the cost of replacement as appropriately depreciated.

6. If two or more persons perform separate functions that collectively are needed to deliver electric service to the final customer and the property used in performing the functions would be centrally assessed if owned by one person, the Nevada Tax Commission shall establish its valuation and apportion the valuation among the several counties in the same manner as the valuation of other centrally assessed property. The Nevada Tax Commission shall determine the proportion of the tax levied upon the property by each county according to the valuation of the contribution of each person to the aggregate valuation of the property. This subsection does not apply to a qualifying facility, as defined in 18 C.F.R. § 292.101, which was constructed before July 1, 1997, or to an exempt wholesale generator, as defined in 15 U.S.C. § 79z-5a.

7. A company engaged in a business described in subsection 1 that does not have property of an interstate or intercounty nature must be assessed as provided in subsection 8.

8. All other property, including, without limitation, that of any company engaged in providing commercial mobile radio service, radio or television transmission services or cable television *or other video* services, must be assessed by the county assessors, except as otherwise provided in NRS 361.321 and 362.100 and except that the valuation of land and mobile homes must be established for assessment purposes by the Nevada Tax Commission as provided in NRS 361.325.

9. On or before November 1 of each year, the Department shall forward a tax statement to each private car line company based on the valuation established pursuant to this section and in accordance with the tax levies of the several districts in each county. The company shall remit the ad valorem taxes due on or before December 15 to the Department, which shall allocate the taxes due each county on a mile-unit basis and remit the taxes to the counties no later than January 31. The portion of the taxes which is due the State must be transmitted directly to the State Treasurer. A company which fails to pay the tax within the time required shall pay a penalty of 10 percent of the tax due or $5,000, whichever is greater, in addition to the tax. Any amount paid as a penalty must be deposited in the State General Fund. The Department may, for good cause shown, waive the payment of a penalty pursuant to this subsection. As an alternative to any other method of recovering delinquent taxes provided by this chapter, the Attorney General may bring a civil action in a court of competent jurisdiction to recover delinquent taxes due pursuant to this subsection in the manner provided in NRS 361.560.

10. For the purposes of this section, an unscheduled air transport company does not include a company that only uses three or fewer fixed-wing aircraft with a weight of less than 12,500 pounds to provide transportation services, if the company elects, in the form and manner

prescribed by the Department, to have the property of the company assessed by a county assessor.

11. As used in this section:

(a) "Company" means any person, company, corporation or association engaged in the business described.

(b) "Commercial mobile radio service" has the meaning ascribed to it in 47 C.F.R. § 20.3, as that section existed on January 1, 1998.

Sec. 95. NRS 372.728 is hereby amended to read as follows:

372.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in this State" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in this State.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in this State.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or *other video service network or any* other means of broadcasting to persons located in this State or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in this State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in this State and only secondarily to bordering jurisdictions.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in this State related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in this State of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same person who owns or controls a retailer who maintains a place of business in the same or a similar line of business in this State.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 372.195.

9. A retailer who, pursuant to a contract with the operator of a ~~[system of]~~ cable television *system or other video service network* located in this State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a ~~[system of]~~ cable television *system or other video service network located* in this State.

Sec. 96. NRS 372.734 is hereby amended to read as follows:

372.734 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television *, video* or data signals, including the transmission of news or information by *video or* data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 97. NRS 374.728 is hereby amended to read as follows:

374.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in a county" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in the county.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in the county under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in the county.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or *other video service network or any* other means of broadcasting to persons located in the county or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in the State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in the State and only secondarily to bordering jurisdictions, and which is disseminated to persons located in the county.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in the county related to banking, financing, the collection of debts, telecommunication or marketing,

or benefits from the location in the county of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same persons who own or control a retailer who maintains a place of business in the same or a similar line of business in the county.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 374.200.

9. A retailer who, pursuant to a contract with the operator of a ~~[system of]~~ cable television *system or other video service network* located in the State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a ~~[system of]~~ cable television *system or other video service network located* in the county.

Sec. 98. NRS 374.739 is hereby amended to read as follows:

374.739 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television *, video* or data signals, including the transmission of news or information by *video or* data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 99. NRS 425.393 is hereby amended to read as follows:

425.393 1. The Chief may request the following information to carry out the provisions of this chapter:

(a) The records of the following public officers and state, county and local agencies:

(1) The State Registrar of Vital Statistics;

(2) Agencies responsible for maintaining records relating to state and local taxes and revenue;

(3) Agencies responsible for keeping records concerning real property and personal property for which a title must be obtained;

(4) All boards, commissions and agencies that issue occupational or professional licenses, certificates or permits;

(5) The Secretary of State;

(6) The Employment Security Division of the Department of Employment, Training and Rehabilitation;

(7) Agencies that administer public assistance;

(8) The Department of Motor Vehicles;

(9) The Department of Public Safety;

(10) The Department of Corrections; and

(11) Law enforcement agencies and any other agencies that maintain records of criminal history.

(b) The names and addresses of:

(1) The customers of public utilities and ~~[community antenna television companies;]~~ *video service providers;* and

(2) The employers of the customers described in subparagraph (1).

(c) Information in the possession of financial institutions relating to the assets, liabilities and any other details of the finances of a person.

(d) Information in the possession of a public or private employer relating to the employment, compensation and benefits of a person employed by the employer as an employee or independent contractor.

2. If a person or other entity fails to supply the information requested pursuant to subsection 1, the Administrator may issue a subpoena to compel the person or entity to provide that information. A person or entity who fails to comply with a request made pursuant to subsection 1 is subject to a civil penalty not to exceed $500 for each failure to comply.

3. A disclosure made in good faith pursuant to subsection 1 does not give rise to any action for damages for the disclosure.

Sec. 100. NRS 432.310 is hereby amended to read as follows:

432.310 "Broadcaster" means a radio broadcasting station, cable operator *or other video service provider* or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.

Sec. 101. NRS 455.210 is hereby amended to read as follows:

455.210 The provisions of NRS 455.220 and 455.230 are not applicable to:

1. An employee of a public utility which produces, transmits or delivers electricity, or a public utility which provides communication services, while the employee, in the course of his employment, constructs, modifies, operates or maintains:

(a) Electrical systems;

(b) Communication systems; or

(c) Overhead electrical or communication circuits or conductors, or the structures supporting them.

2. An employee of a ~~[cable antenna television system]~~ *video service provider operating pursuant to chapter 711 of NRS* or a business which provides communication services, while the employee, acting within the scope of his employment, is making service attachments to the structure supporting an overhead line carrying high voltage, if authorized to do so by the public utility operating the overhead line.

Sec. 102. NRS 597.816 is hereby amended to read as follows:

597.816 The provisions of NRS 597.814 do not prohibit the use of a device for automatic dialing and announcing by any person exclusively on behalf of:

1. A school or school district to contact the parents or guardians of a pupil regarding the attendance of the pupil or regarding other business of the school or school district.

2. A nonprofit organization.

3. A ~~[company]~~ *video service provider* that provides cable television *or other video* services to contact its customers regarding a previously arranged installation of such services at the premises of the customer.

4. A public utility to contact its customers regarding a previously arranged installation of utility services at the premises of the customer.

5. A facility that processes or stores petroleum, volatile petroleum products, natural gas, liquefied petroleum gas, combustible chemicals, explosives, high-level radioactive waste or other dangerous substances to advise local residents, public service agencies and news media of an actual or potential life-threatening emergency.

6. A state or local governmental agency, or a private entity operating under contract with and at the direction of such an agency, to provide:

(a) Information relating to public safety;

(b) Information relating to a police or fire emergency; or

(c) A warning of an impending or threatening emergency.

7. A candidate for public office, committee advocating the passage or defeat of a ballot question, political party, committee sponsored by a political party or a committee for political action.

Sec. 103. NRS 598.137 is hereby amended to read as follows:

598.137 1. A person shall not, in connection with the sale or lease or solicitation for sale or lease of any goods, property or service, represent that another person has a chance to receive a prize or item of value without clearly disclosing on whose behalf the contest or promotion is conducted and all conditions that a participant must meet.

2. A person who makes a representation described in subsection 1 must display, clearly and conspicuously, adjacent to the description of the item or prize to which it relates:

(a) The actual retail value of each item or prize;

(b) The number of each item or prize to be awarded; and

(c) The odds of receiving each item or prize, expressed in whole numbers.

3. It is unlawful to make a representation described in subsection 1 if it has already been determined which items will be given to the person to whom the representation is made.

4. The provisions of this section do not apply if:

(a) Participants are asked to complete and mail or deposit, at a local retail commercial establishment, an entry blank obtained locally or by mail, or to call in their entry by telephone; and

(b) Participants are not asked to listen to a sales presentation.

5. Advertisements with representations made pursuant to subsection 1 that are broadcast by radio or television may be broadcast without the required disclosures, conditions and restrictions but must clearly broadcast the availability of such disclosures, conditions and restrictions to an interested person, without any charge, upon request.

6. This section does not create liability for acts of a publisher, owner, agent or employee of a newspaper, periodical, radio station, television

station, cable television system *or other video service network* or other advertising medium for the publication or dissemination of an advertisement or promotion pursuant to this section if the publisher, owner, agent or employee did not know that the advertisement or promotion violated the provisions of this section.

7. For the purposes of this section, the actual retail value of an item or prize is the price at which substantial sales of the item were made in an area within the last 90 days, or if no substantial sales were made, the cost of the item or prize to the person on whose behalf the contest or promotion is conducted.

Sec. 104. NRS 598A.040 is hereby amended to read as follows:

598A.040 The provisions of this chapter do not apply to:

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.

2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.

3. Conduct which is expressly authorized, regulated or approved by:

(a) A statute of this State or of the United States;

(b) An ordinance of any city or county of this State, except for ordinances relating to ~~[community antenna television companies;]~~ *video service providers;* or

(c) An administrative agency of this State or of the United States or of a city or county of this State, having jurisdiction of the subject matter.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges, including charges between carriers and compensation paid or received for the use of facilities and equipment, that are authorized, regulated or approved by the Transportation Services Authority pursuant to chapter 706 of NRS.

5. Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 105. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Consumer" means a person who is solicited by a seller or salesman.

4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

5. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

6. "Goods or services" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

7. "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

8. "Recovery service" means a business or other practice whereby a person represents or implies that he will, for a fee, recover any amount of money that a consumer has provided to a seller or salesman pursuant to a solicitation governed by the provisions of this chapter.

9. "Salesman" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

➥ except that a person is not a salesman if his only function is to identify a consumer by name only and he immediately refers the consumer to a salesman.

10. Except as otherwise provided in subsection 11, "seller" means any person who, on his own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salesmen or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or

(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

11. "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or $50, whichever is less; or

(2) The consumer provides a donation of $50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, video cassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

(2) Includes the business address of the person;

(3) Includes at least 24 pages of written material and illustrations;

(4) Is distributed in more than one state; and

(5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause

another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his license.

(p) A person soliciting the sale of services provided by a ~~[community antenna television company]~~ *video service provider* subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than $100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act *,* ~~[(]~~ 7 U.S.C. §§ 1 et seq. *;* ~~[),]~~ and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 105.1. For the purposes of sections 105.3 to 106.2, inclusive, of this act, the Legislature hereby finds and declares that:

1. There is a need to balance the goal of providing children with the benefits and opportunities available on the Internet against the compelling need and duty to protect children from contact with sexual predators.

2. Sexual predators use Internet and network sites, including chat rooms and social networking websites, to locate, approach and befriend children, to acquire personal information about children and to prey on children by engaging in sexually explicit conversations, requesting photographs and attempting to lure children into meeting with them in person.

3. According to the United States Attorney General, one in five children has been approached sexually on the Internet.

4. The explosive growth of chat rooms and social networking websites has increased the difficulty of monitoring the Internet activities of children and protecting children from sexual predators, particularly when children use the Internet without supervision.

5. Providers of Internet service and the owners and operators of chat rooms and social networking websites are well-situated to help parents and guardians in the on-going effort to guard against sexual predators who misuse Internet technology as a tool to prey on and victimize children.

Sec. 105.2. Chapter 603 of NRS is hereby amended by adding thereto the provisions set forth as sections 105.3 to 106.2, inclusive, of this act.

Sec. 105.3. *As used in sections 105.3 to 106.2, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 105.4 to 105.7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 105.4. *"Child" means a person who is less than 18 years of age.*

Sec. 105.5. *"Electronic mail" has the meaning ascribed to it in NRS 41.715.*

Sec. 105.6. *1. "Internet or any other computer network" means:*

(a) The computer network commonly known as the Internet and any other local, regional or global computer network that is similar to or is a predecessor or successor of the Internet; and

(b) Any identifiable site on the Internet or such other computer network.

2. The term includes, without limitation:

(a) A website or other similar site on the World Wide Web;

(b) A site that is identifiable through a Uniform Resource Location;

(c) A site on a computer network that is owned, operated, administered or controlled by a provider of Internet service;

(d) An electronic bulletin board;

(e) A list server;

(f) A newsgroup; or

(g) A chat room.

Sec. 105.7. *"Provider of Internet service" or "provider" means any person who, for a fee or other consideration, provides subscribers with access to the Internet or any other computer network.*

Sec. 105.8. *For the purposes of sections 105.3 to 106.2, inclusive, of this act, a person has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.*

Sec. 106. *1. If a provider of Internet service knows or has reasonable cause to believe that a subscriber resides within this State, the provider shall make available to the subscriber a product or service which enables the subscriber to regulate a child's use of the Internet service provided to the subscriber if such a product or service is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service. The product or service must, subject to such availability, enable the subscriber to:*

(a) Block all access to the Internet;

(b) Block access to specific websites or domains disapproved by the subscriber;

(c) Restrict access exclusively to specific websites or domains approved by the subscriber; and

(d) Allow the subscriber to monitor a child's use of the Internet service by providing a report to the subscriber of the specific websites or domains that the child has visited or has attempted to visit but could not access because the websites or domains were blocked or restricted by the subscriber.

2. For the purposes of subsection 1, a provider of Internet service shall be deemed to know that a subscriber resides within this State if the subscriber identifies Nevada as his place of residence at the time of subscription.

3. If a product or service described in subsection 1 is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service, the provider of Internet service:

(a) Shall provide to the subscriber, at the time of subscription, notice of the availability of the product or service described in subsection 1. The notice must be provided to the subscriber by electronic mail or in a written form through another reasonable means.

(b) May make the product or service described in subsection 1 available to the subscriber either directly or through a third-party vendor. The provider or third-party vendor may charge the subscriber a fee for the product or service.

Sec. 106.2. *1. Any violation of sections 105.3 to 106.2, inclusive, of this act constitutes a deceptive trade practice subject to NRS 598.0903 to 598.0999, inclusive.*

2. The remedies, duties and prohibitions set forth in sections 105.3 to 106.2, inclusive, of this act are not exclusive and are in addition to any other remedies, duties and prohibitions provided by law.

Sec. 106.4. NRS 603.010 is hereby amended to read as follows:

603.010 As used in ~~[this chapter]~~ *NRS 603.010 to 603.090, inclusive,* unless the context otherwise requires, the words and terms defined in NRS 603.020 and 603.030, have the meanings ascribed to them in those sections.

Sec. 106.6. NRS 603.090 is hereby amended to read as follows:

603.090 The civil remedies provided in ~~[this chapter:]~~ *NRS 603.010 to 603.090, inclusive:*

1. Do not preclude the prosecution of a defendant under the penal laws of this State.

2. Are in addition to any rights or remedies to which the owner of a proprietary program or data stored in a computer is entitled under the common law.

Sec. 106.8. NRS 618.880 is hereby amended to read as follows:

618.880 1. The Division shall adopt regulations establishing standards and procedures for the operation of cranes, including, without limitation, regulations requiring the:

(a) Establishment and implementation of site safety plans and procedures for the erection and dismantling of tower cranes;

(b) Establishment of a clear zone around the erection, dismantling or other highly hazardous lifts with a crane;

(c) Annual certification of the mechanical lifting parts of the crane; and

(d) Certification of tower cranes each time a tower crane is erected and additional annual certifications of tower cranes while they continue to be in use.

2. Except as otherwise provided in subsection 3:

(a) The Division shall adopt regulations requiring the establishment and implementation of programs for the certification of all persons who operate:

(1) Tower cranes; or

(2) Mobile cranes having a usable boom length of 25 feet or greater or a maximum machine rated capacity of 15,000 pounds or greater.

(b) A person shall not operate a tower crane or a mobile crane described in subparagraph (2) of paragraph (a) unless the person holds certification as a crane operator issued pursuant to this subsection for the type of crane being operated.

(c) An applicant for certification as a crane operator must hold a certificate which:

(1) Is issued by an organization whose program of certification for crane operators:

(I) Is accredited by the National Commission for Certifying Agencies or an equivalent accrediting body approved by the Division; or

(II) Meets other criteria established by the Division; and

(2) Certifies that the person has met the standards to be a crane operator established by the American Society of Mechanical Engineers in its standards B30.3, B30.4 or B30.5 as adopted by regulation of the Division.

3. The provisions of subsection 2 do not apply to a person who:

(a) Is an employee of a utility while the person is engaged in work for or at the direction of the utility;

(b) Operates an electric or utility line truck that is regulated pursuant to 29 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart V; or

(c) Operates an aerial or lifting device, whether or not self-propelled, that is designed and manufactured with the specific purpose of lifting one or more persons in a bucket or basket or on a ladder or platform and holding those persons in the lifted position while they perform tasks. Such devices include, without limitation:

(1) A bucket truck or lift;

(2) An aerial platform;

(3) A platform lift; or

(4) A scissors lift.

4. As used in this section, "utility" means any public or private utility, whether or not the utility is subject to regulation by the Public Utilities Commission of Nevada, that provides, at wholesale or retail:

(a) Electric service;

(b) Gas service;

(c) Water or sewer service;

(d) Telecommunication service, including, without limitation, local exchange service, long distance service and personal wireless service; or

(e) Television service, including, without limitation, community antenna television *, cable television and other video* service.

Sec. 107. NRS 624.218 is hereby amended to read as follows:

624.218 1. The Board shall adopt by regulation a classification of licensing for persons who construct or improve ~~[community antenna television systems.]~~ *video service networks.* Except as otherwise provided in

subsection 2, a person who engages in such construction, alteration or improvement must be licensed in this classification and may not be required to be licensed in any other classification.

2. The licensing requirements adopted pursuant to subsection 1 do not apply to a person who is engaged solely in the alteration or repair of antennae used by a community antenna television system.

3. As used in this section, "video service network" has the meaning ascribed to it in section 26 of this act.

Sec. 108. 1. NRS 318.1193, 318.1194, 354.598811, 711.185, 711.190, 711.200, 711.210, 711.230 and 711.250 are hereby repealed.

2. Section 2.290 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 63, is hereby repealed.

3. Section 2.320 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 612, is hereby repealed.

4. Section 2.280 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 300, is hereby repealed.

5. Section 2.350 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 460, is hereby repealed.

6. Section 2.300 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 410, is hereby repealed.

7. Section 2.330 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1405, is hereby repealed.

8. Section 2.300 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1219, is hereby repealed.

9. Section 2.320 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 466, is hereby repealed.

10. Section 2.300 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 184, Statutes of Nevada 1985, at page 645, is hereby repealed.

Sec. 109. On or before October 1, 2007, the Secretary of State shall adopt any regulations that are necessary to carry out the provisions of this act.

~~Sec. 110.~~ This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

318.1193 Facilities for television: Limitation on organization if area includes existing service.

318.1194 Facilities for television: Approval of electors required in certain districts for franchise for community antenna television system.

354.598811 Limitations on fees applicable to public utilities: "Community antenna television company" defined.

711.185 Governing body may grant exclusive franchise.

711.190 Franchise granted by city or county: Conditions; requirements.

711.200 Fees for franchise.

711.210 Renewal of franchise.

711.230 Considerations in granting franchise.

711.250 Adoption of ordinance to establish procedure to resolve complaints of subscribers; notice.

Caliente City Charter Sec. 2.290 Powers of City Council: Television franchises.

Carlin City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Carson City Charter Sec. 2.280 Power of Board: Television franchises.

Elko City Charter Sec. 2.350 Powers of City Council: Television franchises.

Henderson City Charter Sec. 2.300 Powers of City Council: Television franchises.

Las Vegas City Charter Sec. 2.330 Powers of City Council: Television franchises.

North Las Vegas City Charter Sec. 2.300 Powers of City Council: Television franchises.

Wells City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Yerington City Charter Sec. 2.300 Powers of City Council: Franchises for television and cable television.

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend and Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Heck moved that Assembly Bill No. 478 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Heck.

Motion carried.

Senator Horsford moved that Assembly Bill No. 577 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Horsford.

Motion carried on a division of the house.

Motion carried.

Senator Amodei moved that Assembly Bill No. 577 be taken from the Secretary's desk and placed on the General File.

Remarks by Senator Amodei.

Motion lost on a division of the house.

Senator Raggio moved that the Senate recess until 10:30 p.m.

Motion carried.

Senate in recess at 9:32 p.m.

SENATE IN SESSION

At 11:08 p.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 63.

Bill read third time.

Remarks by Senator Amodei.

Senator Amodei moved that Assembly Bill No. 63 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Assembly Bill No. 92.

Bill read third time.

Roll call on Assembly Bill No. 92:

YEAS—21.

NAYS—None.

Assembly Bill No. 92 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 147.

Bill read third time.

Roll call on Assembly Bill No. 147:

YEAS—21.

NAYS—None.

Assembly Bill No. 147 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 148.

Bill read third time.

Remarks by Senator Titus.

Roll call on Assembly Bill No. 148:

YEAS—21.

NAYS—None.

Assembly Bill No. 148 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 178.

Bill read third time.

Remarks by Senators Carlton and Townsend.

Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CARLTON:

Thank you, Mr. President. I received some concerns through e-mail about this issue. I would like to assure people that biomass would not be considered the burning of tires.

SENATOR TOWNSEND:

Thank you, Mr. President. The issue of tire burning, put into legislation 10 years ago, was clear to the committee that process is considered renewable. However, it is part of the conservation program, which is considered in our renewable portfolio standard, but nowhere in the statute is tire burning considered renewable energy. This is a point well made.

Roll call on Assembly Bill No. 178:

YEAS—21.

NAYS—None.

Assembly Bill No. 178 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 209.

Bill read third time.

Remarks by Senators McGinness, Beers, Titus, Care and Schneider.

Senator McGinness requested that the following remarks be entered in the Journal.

SENATOR MCGINNESS:

Assembly Bill No. 209 has a few important aspects I would like to emphasize and have incorporated into the record.

First, it is intended to eliminate any double taxation related to common elements in common-interest communities.

Second, it ensures that common elements will not escape taxation as their taxation is covered in the taxation of the individual units, not the association or community in general.

Third, the value of the common element will be nominal, or minimized, as in the past based on assessment factors and restrictions on the property as a common element separately assessed.

Fourth, commercial uses inside a common-interest community will be appropriately assessed and taxed as any other similar commercial use outside a common-interest community.

SENATOR BEERS:

Thank you, Mr. President. Last Session in S.B. 358 of the Seventy-third Session, we tried to prevent the double taxation of common elements. The bill last Session provided there would be no assessment against the community association for the value of common amenities because the values of those common amenities are already included in the assessors valuation of the individual homes inside the development. It is my understanding this legislation, Assembly Bill No. 209, implements the intent of S.B. 358 by ensuring the value of the common element be assessed against the individual unit and not the community association. This should not result in an increase in the tax bills of the homeowners because, in the majority of cases in Nevada, the current valuation of the individual units already includes the value of the homeowners right to use the common elements. Consequently, in this situation, no additional value needs to be added to the valuation of the individual unit. In some situations, the assessor's valuation may include the value of the homeowner's right to use the common elements, and in those relatively few instances in our State, a proportionate share of the common elements can be added to the valuation of the unit instead of being charged to the association. This approach protects against the risk of double taxation.

SENATOR TITUS:

This bill had three or four amendments added to it. We should take some time to understand exactly what is in this bill.

I would like to know about the property-tax provisions. Is there anything in here that makes it clear that the common-interest properties, like high-rise condominiums or some of the properties being constructed as part of the midtown projects, are being sold and taxed as commercial property at the 8-percent cap? Or, are they being taxed when they are sold as residential property at the 3-percent cap? If they are at the 8-percent cap as commercial property, then they are entitled to LEED. However, if they are at the 3-percent cap as residential, then they are not. If they want the LEED provision, they should pay the 8 percent. Is that addressed in this anywhere?

SENATOR MCGINNESS:
Thank you, Mr. President. No. That is not addressed in this bill.

SENATOR CARE:
Thank you, Mr. President. I had objected to the amendment that was adopted earlier this evening, but this is the assessors' bill. They need this bill for many good reasons. I will support the bill. It is unfortunate that we sometimes see all of these amendments tacked onto assessors' bills and treasurers' bills even they do not want them. We end up with many bills that are attached to the bill that was asked for. At least this year, it is not a golf-course welfare bill like we had last session. I will support this one.

SENATOR SCHNEIDER:
Thank you, Mr. President. I brought forward a bill like this three sessions ago, then two sessions ago. It is very important that we pass this bill because of the unfair taxation in these homeowner associations. I stand in full support of this bill. Finally, after all of these sessions, we are able to give some relief to the homeowners.

Roll call on Assembly Bill No. 209:
YEAS—21.
NAYS—None.

Assembly Bill No. 209 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 247.
Bill read third time.
Roll call on Assembly Bill No. 247:
YEAS—18.
NAYS—Beers, Cegavske, Heck—3.

Assembly Bill No. 247 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 331.
Bill read third time.
Roll call on Assembly Bill No. 331:
YEAS—21.
NAYS—None.

Assembly Bill No. 331 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 335.
Bill read third time.
Roll call on Assembly Bill No. 335:
YEAS—14.
NAYS—Carlton, Horsford, Mathews, Schneider, Titus, Wiener, Woodhouse—7.

Assembly Bill No. 335 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 375.
Bill read third time.
Remarks by Senator Care.
Senator Care requested that his remarks be entered in the Journal.
Thank you, Mr. President. I will vote for this bill. Just last month on April 17, 2007, the United States Supreme Court in *Waters vs. Wachovia* made it quite clear that under the National Bank Act, states cannot regulate the business of a bank or its affiliates and operating subsidiaries. That is a new term. I want this to be clear for legislative history. That also means to me that the Department of Business and Industry, and the departments and agencies under it, cannot regulate those institutions either under 645e or under 645b.

Roll call on Assembly Bill No. 375:
YEAS—21.
NAYS—None.

Assembly Bill No. 375 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 396.
Bill read third time.
Remarks by Senators Horsford and Townsend.
Roll call on Assembly Bill No. 396:
YEAS—19.
NAYS—Care, Titus—2.

Assembly Bill No. 396 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 431.
Bill read third time.
Remarks by Senator Care.
Roll call on Assembly Bill No. 431:
YEAS—19.
NAYS—Carlton, Titus—2.

Assembly Bill No. 431 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 446.
Bill read third time.
Roll call on Assembly Bill No. 446:
YEAS—21.
NAYS—None.

Assembly Bill No. 446 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 461.
Bill read third time.
Remarks by Senators Titus and McGinness.
Roll call on Assembly Bill No. 461:
YEAS—11.
NAYS—Beers, Care, Cegavske, Coffin, Heck, Horsford, Mathews, Titus, Wiener, Woodhouse—10.

Assembly Bill No. 461 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 513.
Bill read third time.
Roll call on Assembly Bill No. 513:
YEAS—15.
NAYS—Care, Lee, Titus, Wiener, Woodhouse—5.
NOT VOTING—Raggio.

Assembly Bill No. 513 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Heck moved that Assembly Bill No. 478 be taken from the Secretary's desk and placed on the bottom of the General File.
Remarks by Senator Heck.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 518.
Bill read third time.
Remarks by Senators Horsford and Townsend.
Roll call on Assembly Bill No. 518:
YEAS—21.
NAYS—None.

Assembly Bill No. 518 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 521.
Bill read third time.
Roll call on Assembly Bill No. 521:
YEAS—21.
NAYS—None.

Assembly Bill No. 521 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 526.
Bill read third time.
Roll call on Assembly Bill No. 526:
YEAS—21.
NAYS—None.

Assembly Bill No. 526 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 604.
Bill read third time.
Remarks by Senator Horsford.
Senator Horsford requested that his remarks be entered in the Journal.
Thank you, Mr. President. The section in this bill that deals with elections to the city municipalities was added afterwards. I am going to support the provision; however, this bill was negotiated by several parties. There was some concern about bringing these amendments forward in this bill. It may compromise the bill later in conference. I hope that will not happen.

Roll call on Assembly Bill No. 604:
YEAS—19.
NAYS—Care, Carlton—2.

Assembly Bill No. 604 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 10.
Resolution read third time.
Roll call on Assembly Joint Resolution No. 10:
YEAS—21.
NAYS—None.

Assembly Joint Resolution No. 10 having received a constitutional majority, Mr. President declared it passed, as amended.
Resolution ordered transmitted to the Assembly.

Assembly Bill No. 478.
Bill read third time.
Roll call on Assembly Bill No. 478:
YEAS—20.
NAYS—Rhoads.

Assembly Bill No. 478 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 184.

The following Assembly amendment was read:

Amendment No. 821.

"SUMMARY—Revises provisions governing education. (BDR 34-419)"

"AN ACT relating to education; revising provisions governing the statewide system of accountability for public schools and school districts; *revising provisions governing the Commission on Educational Excellence;* revising provisions governing the Commission on Educational Technology; prescribing the minimum credits required of pupils *enrolled in high school* in certain courses of study ; ~~[before graduation from high school;]~~ providing for a waiver from the required *enrollment in the* minimum credits; revising provisions governing the adoption of academic standards; revising provisions governing promotion to high school; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The State Board of Education and each school district are required to prepare annual reports of accountability information. (NRS 385.3469, 385.347, 385.349) In addition, the State Board, each school district and each public school are required to prepare a plan to improve the achievement of pupils. (NRS 385.34691, 385.348, 385.357) Sections 1-7 of this bill revise the provisions governing the annual reports of accountability and the plans to improve.

Each public school is designated annually based upon the yearly progress of the pupils enrolled in the school. (NRS 385.3623, 385.366) If a school is designated for 1 year as demonstrating need for achievement, a technical assistance partnership must be established for the school. (NRS 385.3661, 385.3691, 385.3692) If the school is designated for 2 consecutive years as demonstrating need for improvement, the technical assistance partnership must be continued. (NRS 385.3693) Sections 9, 10 and 24 of this bill eliminate the requirement for the establishment of technical assistance partnerships.

If a public school is designated as demonstrating need for improvement for 3 consecutive years or more, a support team must be established for that school. (NRS 385.3721, 385.374, 385.3741) A support team is required to recommend certain types of corrective action for the school. (NRS 385.3744, 385.376) Sections 11-14 of this bill revise provisions governing the school support teams and the recommendation of corrective action.

Existing law creates the Commission on Educational Excellence and requires the Commission to provide for the distribution of grants of money to

public schools and school districts from the Account for Programs for Innovation and the Prevention of Remediation. (NRS 385.3781-385.379) Section 15.5 of this bill revises provisions governing the factors for consideration by the Commission in awarding grants of money from the Account.

Existing law creates the Commission on Educational Technology and requires the Commission to establish a plan for the use of educational technology in the public schools. (NRS 388.790, 388.795) Section 19 of this bill requires the Commission to conduct an assessment of the needs of each school district relating to educational technology during the spring semester of each even-numbered school year for submission to the Legislative Committee on Education and the Legislature.

Existing law designates the core academic subjects that must be taught in all public schools as English, mathematics, science and social studies. (NRS 389.018) ~~[Existing law also requires a pupil to pass the high school proficiency examination before the pupil may receive a standard high school diploma. (NRS 389.015)]~~ Section 20 of this bill prescribes the minimum units of credit ~~[that]~~ *in the core academic subjects in which* a pupil must ~~[earn in the core academic subjects before graduation from high school.]~~ *enroll.* Section 20 also provides that the pupil, his parent or legal guardian and an administrator or counselor at the school may mutually agree to a modified course of study for the pupil.

Existing law requires the Council to Establish Academic Standards for Public Schools to establish the standards of content and performance for certain courses of study. (NRS 389.520) The State Board is required to adopt the standards as submitted by the Council. Section 21 of this bill authorizes the State Board to object to the standards and return the standards to the Council for reconsideration.

Existing law prohibits a pupil from being promoted to high school unless he completes certain course work and credits. (NRS 392.033) Section 22 of this bill provides that if a pupil has been retained one time in grade 8 and he fails again to successfully complete the requirements, he must complete a program of remedial study.

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following ~~[subgroups]~~ *groups* of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the ~~[subgroups]~~ *groups* identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide

program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in *grade 8 and a separate reporting of the annual rate of pupils who drop out of school in* grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole . ~~[, excluding]~~ *The reporting for pupils in grades 9 to 12, inclusive, excludes* pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma.

(2) An adjusted diploma.

(3) A certificate of attendance.

(bb) ~~[The]~~ *For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the* number and percentage of pupils who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination . ~~[, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.]~~

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

2. A separate reporting for a ~~[subgroup]~~ *group* of pupils must not be made pursuant to this section if the number of pupils in that ~~[subgroup]~~ *group* is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a ~~[subgroup]~~ *group* for that ~~[subgroup]~~ *group* to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.34691 is hereby amended to read as follows:

385.34691 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

(1) Employees of the Department;

(2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; and

(4) At least one representative of the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516, appointed by the Council; and

(b) May be prepared in consultation with:

(1) Representatives of institutions of higher education;

(2) Representatives of regional educational laboratories;

(3) Representatives of outside consultant groups;

(4) Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;

(5) The Bureau; and

(6) Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3469 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors common among the school districts or charter schools in this State, as revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in public schools in this State, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in

each ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school districts;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at public schools in this State to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in public schools in this State, as deemed appropriate by the State Board.

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) The requirements for admission to an institution of higher education and the opportunities for financial aid;

(2) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.938, inclusive; and

(3) The need for a pupil to make informed decisions about his curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification, by category, of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively.

(g) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

3. The State Board shall:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.

4. On or before December 15 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

(a) Governor;

(b) Committee;

(c) Bureau;

(d) Board of Regents of the University of Nevada;

(e) Council to Establish Academic Standards for Public Schools created by NRS 389.510;

(f) Board of trustees of each school district; and

(g) Governing body of each charter school.

Sec. 3. NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes, without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:

(1) Who are economically disadvantaged, as defined by the State Board;

(2) Who are from major racial or ethnic groups, as defined by the State Board;

(3) With disabilities;

(4) Who are limited English proficient; and

(5) Who are migratory children, as defined by the State Board;

(b) The average daily attendance of pupils, reported separately for the ~~[subgroups]~~ *groups* identified in paragraph (a);

(c) The transiency rate of pupils;

(d) The percentage of pupils who are habitual truants;

(e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;

(f) The number of incidents resulting in suspension or expulsion for:

(1) Violence to other pupils or to school personnel;

(2) Possession of a weapon;

(3) Distribution of a controlled substance;

(4) Possession or use of a controlled substance; and

(5) Possession or use of alcohol;

(g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;

(h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;

(i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;

(j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;

(k) The number and percentage of pupils who graduated from high school;

(l) The number and percentage of pupils who received a:

(1) Standard diploma;

(2) Adult diploma;

(3) Adjusted diploma; and

(4) Certificate of attendance;

(m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;

(n) Per pupil expenditures;

(o) Information on the professional qualifications of teachers;

(p) The average daily attendance of teachers and licensure information;

(q) Information on the adequate yearly progress of the schools and school districts;

(r) Pupil achievement based upon the examinations administered pursuant to NRS 389.550 and the high school proficiency examination;

(s) To the extent practicable, pupil achievement based upon the examinations administered pursuant to NRS 389.015 for grades 4, 7 and 10; and

(t) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. On or before September 7 of each year, the State Board shall:

(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and

(b) Submit a copy of the summary in an electronic format to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

Sec. 4. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed *educational* personnel ~~[in education]~~ in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall ~~[:~~

~~(a) Report]~~ *report* the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school.

~~[(b) For the information that is reported in an aggregated format, include the data that is applicable to]~~ *The information for charter schools must be reported separately and must denote* the charter schools sponsored by the school district ~~[but not the charter schools that are sponsored by the State Board.~~

~~(c) Denote separately in the report those charter schools that are located within the school district]~~ and *the charter schools* sponsored by the State Board.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations . ~~[;]~~

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school . ~~[;]~~

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following ~~[subgroups]~~ *groups* of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board . ~~[;]~~

(4) A comparison of the achievement of pupils in each ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board . ~~[;]~~

(5) The percentage of pupils who were not tested . ~~[;]~~

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the ~~[subgroups]~~ *groups* identified in subparagraph (3) . ~~[;]~~

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available . ~~[;]~~

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison . ~~[; and]~~

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a ~~[subgroup]~~ *group* of pupils must not be made pursuant to this paragraph if the number of pupils in that ~~[subgroup]~~ *group* is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a ~~[subgroup]~~ *group* for that ~~[subgroup]~~ *group* to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in *grade 8 and a separate reporting of the annual rate of pupils who drop out of school in* grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole . ~~[, excluding]~~ *The reporting for pupils in grades 9 to 12, inclusive, excludes* pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and

percentage of pupils who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

➥ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee; and

(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 5. NRS 385.348 is hereby amended to read as follows:

385.348 1. The board of trustees of each school district shall, in consultation with the employees of the school district, prepare a plan to improve the achievement of pupils enrolled in the school district, excluding pupils who are enrolled in charter schools located in the school district. If the school district is a Title I school district designated as demonstrating need for improvement pursuant to NRS 385.377, the plan must also be prepared in consultation with parents and guardians of pupils enrolled in the school district and other persons who the board of trustees determines are appropriate.

2. Except as otherwise provided in this subsection, the plan must include the items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto. If a school district has not been designated as demonstrating need for improvement pursuant to NRS 385.377, the board of trustees of the school district is not required to include those items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto that directly relate to the status of a school district as needing improvement.

3. In addition to the requirements of subsection 2, a plan to improve the achievement of pupils enrolled in a school district must include:

(a) A review and analysis of the data upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at individual schools that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in the school district, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school district;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed by the school district to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in the school district, as deemed appropriate by the board of trustees of the school district.

(e) An identification, by category, of the employees of the school district who are responsible for ensuring that each provision of the plan is carried out effectively.

(f) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(g) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from the school district, by program and by school, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the school district to carry out the plan, including, without limitation, a budget of the overall cost for carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature that are available to the school district or the schools within the school district to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(l) An identification of the programs, practices and strategies that are used throughout the school district and by the schools within the school district that have proven successful in improving the achievement and proficiency of pupils, including, without limitation:

(1) An identification of each school that carries out such a program, practice or strategy;

(2) An indication of which programs, practices and strategies are carried out throughout the school district and which programs, practices and strategies are carried out by individual schools;

(3) The extent to which the programs, practices and strategies include methods to improve the achievement and proficiency of pupils in each ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361; and

(4) A description of how the school district disseminates information concerning the successful programs, practices and strategies to all schools within the school district.

4. The board of trustees of each school district shall:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school district.

5. On or before December 15 of each year, the board of trustees of each school district shall submit the plan or the revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee; and

(f) Bureau.

Sec. 6. NRS 385.349 is hereby amended to read as follows:

385.349 1. The board of trustees of each school district shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) The information set forth in subsection 1 of NRS 385.34692, reported for the school district as a whole and for each school within the school district;

(b) Information on the involvement of parents and legal guardians in the education of their children; and

(c) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau and the school districts, prescribe a form that contains the basic information required by subsection 1. The board of trustees of a school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district shall:

(a) Submit the summary in an electronic format to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee;

(5) Bureau; and

(6) Schools within the school district.

(b) Provide for the public dissemination of the summary by posting a copy of the summary on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the summary. The board of trustees of each school district shall ensure that the parents and guardians of pupils enrolled in the school district have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district, if any. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the summary.

5. The board of trustees of each school district shall [:

~~(a) Report]~~ *report* the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school.

~~[(b) For the information that is reported in an aggregated format, include the data that is applicable to]~~ *The information for charter schools must be reported separately and must denote* the charter schools sponsored by the school district ~~[but not the charter schools that are sponsored by the State Board.~~

~~(c) Denote separately in the report those charter schools that are located within the school district]~~ and *the charter schools* sponsored by the State Board.

Sec. 7. NRS 385.357 is hereby amended to read as follows:

385.357 1. The principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

2. The plan developed pursuant to subsection 1 must include:

(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at the school that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.

(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each ~~[subgroup]~~ *group* of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.

(e) Annual measurable objectives, consistent with the annual measurable objectives established by the State Board pursuant to NRS 385.361, for the continuous and substantial progress by each ~~[subgroup]~~ *group* of pupils identified in paragraph (b) of subsection 1 of that section who are enrolled in the school to ensure that each ~~[subgroup]~~ *group* will make adequate yearly progress and meet the level of proficiency prescribed by the State Board.

(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.

(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year-round calendar for pupils enrolled in the school

who need additional instructional time to pass or to reach a level considered proficient.

(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.

(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.

(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.

(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by

the school district in which the school is located in complying with this paragraph.

(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(p) A budget of the overall cost for carrying out the plan.

3. In addition to the requirements of subsection 2, if a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623, the plan must comply with 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto.

4. Except as otherwise provided in subsection 5, the principal of each school shall, in consultation with the employees of the school:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 ~~[, the technical assistance partnership or the]~~ *and a* support team *has been* established for the school, ~~[as applicable,]~~ *the support team* shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS ~~[385.3692 or 385.3741, as applicable.]~~ *385.3741*. If the school is a Title I school that has been designated as demonstrating need for improvement, the ~~[technical assistance partnership or]~~ support team established for the school ~~[, as applicable,]~~ shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the ~~[partnership or]~~ support team, outside experts.

6. On or before November 1 of each year, the principal of each school ~~[, or the technical assistance partnership]~~ or *the* support team established for the school, as applicable, shall submit the plan or the revised plan, as applicable, to:

(a) If the school is a public school of the school district, the superintendent of schools of the school district.

(b) If the school is a charter school, the governing body of the charter school.

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the

plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

8. If a school is designated as demonstrating exemplary achievement, high achievement or adequate achievement, or if a school that is not a Title I school is designated as demonstrating need for improvement, not later than 45 days after receipt of the plan or the revised plan, as applicable, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan if it meets the requirements of this section.

9. On or before December 15 of each year, the principal of each school ~~[, or the technical assistance partnership]~~ or *the* support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

(g) Board of trustees of the school district in which the school is located.

10. A plan for the improvement of a school must be carried out expeditiously, but not later than January 1 after approval of the plan pursuant to subsection 7 or 8, as applicable.

Sec. 8. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before June 30 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State Board, the Department shall make a determination for the charter school in consultation with the

State Board. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b), the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the State Board the determination made for each charter school that is sponsored by the State Board.

4. Except as otherwise provided in this subsection, the Department shall determine that a public school has failed to make adequate yearly progress if any ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361 does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a ~~[subgroup]~~ *group* identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

5. In addition to the provisions of subsection 4, the Department shall determine that a public school has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each ~~[subgroup]~~ *group* of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the ~~[subgroup]~~ *group* enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in that ~~[subgroup]~~ *group* enrolled in the school who were required to take the examinations.

6. If the number of pupils in a particular ~~[subgroup]~~ *group* who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 5 based solely upon that particular ~~[subgroup.]~~ *group.*

(b) The pupils in such a ~~[subgroup]~~ *group* must be included in the overall count of pupils enrolled in the school who took the examinations.

➥ The State Board shall prescribe the mechanism for determining the number of pupils that must be in a ~~[subgroup]~~ *group* for that ~~[subgroup]~~ *group* to yield statistically reliable information.

7. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of

pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

8. As used in this section:

(a) "Irregularity in testing administration" has the meaning ascribed to it in NRS 389.604.

(b) "Irregularity in testing security" has the meaning ascribed to it in NRS 389.608.

Sec. 9. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. ~~[If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the technical assistance partnership established for the school pursuant to this section shall carry out the requirements of NRS 385.3692.~~

~~2.]~~ Except as otherwise provided in subsection ~~[3,]~~ *2,* if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; *and*

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto . ~~[; and~~

~~(c) Establish a technical assistance partnership for the school, with the membership prescribed pursuant to NRS 385.3691.~~

~~3.]~~ *2.* If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) The governing body of the charter school shall ~~[:~~

~~(1) Provide]~~ *provide* notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382 . ~~[; and~~

~~(2) Establish a technical assistance partnership for the charter school, with the membership prescribed pursuant to NRS 385.3691.]~~

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. ~~[The provisions of this paragraph do not require the school district to pay for the technical assistance partnership established by the governing body of the charter school.]~~

(c) For a charter school sponsored by the State Board, the Department shall, in conjunction with the governing body of the charter school, ensure

that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[4.]~~ *3.* In addition to the requirements of subsection ~~[2 or 3,]~~ *1 or 2,* as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) For a charter school sponsored by the State Board, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 10. NRS 385.3693 is hereby amended to read as follows:

385.3693 1. ~~[If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the technical assistance partnership established for the school pursuant to NRS 385.3661 shall carry out the requirements of NRS 385.3692.~~

~~2.]~~ Except as otherwise provided in subsection ~~[3,]~~ *2,* if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; *and*

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto . ~~[; and~~

~~(c) Continue the technical assistance partnership for the school.~~

~~3.]~~ *2.* If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall ~~[:~~

~~(1) Provide]~~ *provide* notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382 . ~~[; and~~

~~(2) Continue the technical assistance partnership for the school.]~~

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. ~~[The provisions of this paragraph do not require the school~~

~~district to pay for the technical assistance partnership established by the governing body of the charter school.]~~

(c) For a charter school sponsored by the State Board, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 11. NRS 385.374 is hereby amended to read as follows:

385.374 *1.* The membership of each support team established pursuant to NRS 385.3721 ~~[.~~

~~1. Must]~~ *must* consist of, without limitation:

(a) Teachers and principals who are considered highly qualified and who are not employees of the public school for which the support team is established;

(b) ~~[At least one representative of the Department,]~~ *One member appointed in accordance with subsection 3,* who must serve as the ~~[facilitator]~~ *team leader* of the support team;

(c) Except for a charter school, at least one administrator at the district level who is employed by the board of trustees of the school district;

(d) At least one parent or guardian of a pupil who is enrolled in the public school for which the support team is established; and

(e) In addition to the requirements of paragraphs (a) to (d), inclusive, for a charter school:

(1) At least one member of the governing body of the charter school, regardless of the sponsor of the charter school; and

(2) If the charter school is sponsored by the board of trustees of a school district, at least one employee of the school district, which may include an administrator.

2. ~~[May]~~ *The membership of each support team established pursuant to NRS 385.3721 may* consist of, without limitation:

(a) Except for a charter school, one or more members of the board of trustees of the school district in which the school is located;

(b) Representatives of institutions of higher education;

(c) Representatives of regional educational laboratories;

(d) Representatives of outside consultant groups;

(e) Representatives of the regional training program for the professional development of teachers and administrators created by NRS 391.512 that provides services to the school district in which the school is located;

(f) The Bureau; and

(g) Other persons who the Department determines are appropriate.

3. The member appointed pursuant to paragraph (b) of subsection 1 must:

(a) Be employed by the Department; or

(b) If he is not employed by the Department, have the training and experience required by the Department.

Sec. 12. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(e) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(f) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the State Board, the support team shall make the recommendations to the State Board and the Department.

(g) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the names and duties of each person who is responsible for carrying out the revisions.

(h) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located,

the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school.

(i) Prepare a ~~[monthly]~~ *quarterly* progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(j) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise ~~[monthly]~~ *quarterly* progress report for use by each support team in accordance with paragraph (i) of subsection 1.

Sec. 13. NRS 385.3744 is hereby amended to read as follows:

385.3744 1. Except as otherwise provided in subsection ~~[2,]~~ *3,* if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, the support team established for the school shall consider whether corrective action is appropriate for the school. If the support team determines that corrective action is appropriate, the support team shall make a recommendation ~~[to the Department]~~ for corrective action for the school, including, without limitation, the type of corrective action that is recommended from the list of corrective actions authorized pursuant to ~~[paragraphs (a), (b) and (c).]~~ *subsection 2. The recommendation must be submitted to:*

(a) For a school of the school district or a charter school sponsored by the board of trustees of the school district, the board of trustees.

(b) For a charter school sponsored by the State Board, the Department.

2. Regardless of whether a support team recommends corrective action for a school, the Department *may, for a charter school sponsored by the State Board, and the board of trustees of a school district* may *, for a school of the school district or a charter school sponsored by the board of trustees,* take one or more of the following corrective actions for the school:

(a) Develop and carry out a new curriculum at the school, including the provision of appropriate professional development relating to the new curriculum.

(b) ~~[Decrease the number]~~ *Significantly decrease the managerial authority* of *the* employees at the school . ~~[who carry out managerial duties.]~~

(c) Extend the school year or the school day.

~~[2.]~~ *3.* The Department *or the board of trustees of a school district, as applicable,* shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Department *or the board of trustees, as applicable,* may proceed with corrective action as if the delay never occurred.

Sec. 14. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years for failure to make adequate yearly progress, the support team for the school shall:

(a) If corrective action was not taken against the school pursuant to NRS 385.3744, consider whether corrective action is appropriate for the school.

(b) If corrective action was taken against the school pursuant to NRS 385.3744, consider whether further corrective action is appropriate or whether consequences or sanctions, or both, are appropriate for the school.

~~[2.]~~

2. Regardless of whether a support team recommends corrective action or consequences or sanctions for a school, the Department *may, for a charter school sponsored by the State Board, and the board of trustees of a school district* may *, for a school of the school district or a charter school sponsored by the board of trustees,* take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

~~[2.]~~ *3.* The Department *or the board of trustees of a school district, as applicable,* shall grant a delay from the imposition of corrective action or restructuring pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Department *or the board of trustees, as applicable,* may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

~~[3.]~~ *4.* Before the *board of trustees or the* Department proceeds with consequences or sanctions, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 15. NRS 385.3762 is hereby amended to read as follows:

385.3762 1. On or before July 1 of each year, the Department shall determine whether each school district is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361. The pupils who are enrolled in a charter school, if any, located within a school district must not be included in the determination made for that school district. The determination made for each school district must be based only upon the information and data for those pupils who were enrolled in the school district for a full academic year, regardless of whether those pupils attended more than one school within the school district for that academic year.

2. Except as otherwise provided in this subsection, the Department shall determine that a school district has failed to make adequate yearly progress if any ~~[subgroup]~~ *group* of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school district does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school district shall be deemed to have made adequate yearly progress even though a ~~[subgroup]~~ *group* of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school district did not satisfy the annual measurable objectives of the State Board.

3. In addition to the provisions of subsection 2, the Department shall determine that a school district has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school district who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school district who were required to take the examinations; or

(b) Except as otherwise provided in subsection 4, for each ~~[subgroup]~~ *group* of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils enrolled in the school district who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in the ~~[subgroup]~~ *group* who were required to take the examinations.

4. If the number of pupils in a particular ~~[subgroup]~~ *group* who are enrolled in a school district is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school district has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 3 based solely upon that particular ~~[subgroup.]~~ *group.*

(b) The pupils in such a ~~[subgroup]~~ *group* must be included in the overall count of pupils enrolled in the school district who took the examinations.

➥ The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a ~~[subgroup]~~ *group* for that ~~[subgroup]~~ *group* to yield statistically reliable information.

Sec. 15.5. *NRS 385.3785 is hereby amended to read as follows:*

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;

(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation; and

(4) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by school districts and public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both. All school districts and public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the school district or school has made adequate yearly progress or failed to make adequate yearly progress. A school district or public school selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from school districts and public schools that desire to participate in the program.

(e) Prescribe accountability measures to be carried out by a school district or public school that participates in the program if that school district or public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of school districts and schools that participate; and

(2) Conditions for school districts and schools that do not meet the grant criteria but desire to continue participation in the program and receive money

from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(f) Determine the amount of money that is available from the Account for those school districts and public schools that are selected to participate in the program.

(g) Allocate money to school districts and public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(h) Establish criteria for school districts and public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria identified in the plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(2) If applicable, the achievement of pupils enrolled in the school district as a whole, based upon measurable criteria identified in the plan to improve the achievement of pupils for the school district prepared pursuant to NRS 385.348;

(3) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff;

(4) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school district or the school is meeting the measurable objectives identified in the plan; and

(5) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to school districts and public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall comply with the requirements of subsection 1.

3. *The Commission shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State, the academic needs of pupils, any special academic interests of pupils and any other special concerns of pupils, including, without limitation, schools that have a large population of Native Americans.*

4. If a school district or public school that receives money pursuant to subsection 1 or 2 does not meet the criteria for effectiveness as prescribed in paragraph (h) of subsection 1 over a 2-year period, the Commission may consider not awarding future allocations of money to that school district or public school.

~~[4.]~~ *5.* On or before July 1 of each year, the Department shall provide a list of priorities of schools based upon the adequate yearly progress status of

schools in the immediately preceding year for consideration by the Commission in its development of procedures for the applications.

~~[5.]~~ *6.* In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 16. NRS 385.391 is hereby amended to read as follows:

385.391 1. The Department shall adopt:

(a) Regulations to provide for the recognition of schools that:

(1) Receive a designation as demonstrating exemplary achievement or high achievement pursuant to NRS 385.3623.

(2) Significantly improve the academic achievement of ~~[subgroups]~~ *groups* of pupils identified in paragraph (b) of subsection 1 of NRS 385.361.

(3) Exceed adequate yearly progress, as determined by the Department pursuant to NRS 385.3613, for 2 or more consecutive years.

(b) Such regulations as it deems necessary to carry out the provisions of this section and NRS 385.3455 to 385.391, inclusive, including, without limitation, uniform standards for the type and format of data that must be submitted by the school districts and the time by which such data must be submitted.

2. The Department may work in consultation with the Bureau for identifying and publicizing the achievement of schools that are recognized pursuant to paragraph (a) of subsection 1.

Sec. 17. NRS 386.605 is hereby amended to read as follows:

386.605 1. On or before July 15 of each year, the governing body of a charter school ~~[that is sponsored by the board of trustees of a school district]~~ shall submit the information concerning the charter school that is required pursuant to subsection 2 of NRS 385.347 to the board of trustees ~~[that sponsors]~~ *of the school district in which* the charter school *is located* for inclusion in the report of the school district pursuant to that section. The information must be submitted by the charter school in a format prescribed by the board of trustees.

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by charter schools pursuant to this section and NRS 385.357, consult with the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 18. NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each ~~[subgroup]~~ *group* of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➥ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction but must not be used for the purpose of evaluating an individual teacher or paraprofessional.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(g) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(h) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the

Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 19. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347; ~~[and]~~

(d) *The results of the assessment of needs conducted pursuant to subsection 6; and*

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, but not limited to, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, ~~[but not limited to,]~~ *without limitation,* the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. *During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:*

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➥ *The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.*

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide

recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

~~[7.]~~ *9.* As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 20. NRS 389.018 is hereby amended to read as follows:

389.018 1. The following subjects are designated as the core academic subjects that must be taught, as applicable for grade levels, in all public schools, the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS:

(a) English, including reading, composition and writing;

(b) Mathematics;

(c) Science; and

(d) Social studies, which includes only the subjects of history, geography, economics and government.

2. *Except as otherwise provided in this subsection, a pupil enrolled in a public* high *school must* ~~*[, before graduation from high school, have earned]*~~ *enroll in a minimum of:*

(a) Four units of credit in English;

(b) Four units of credit in mathematics, including, without limitation, Algebra I and geometry, or an equivalent course of study that integrates Algebra I and geometry;

(c) Three units of credit in science, including two laboratory courses; and

(d) Three units of credit in social studies, including, without limitation:

(1) American government;

(2) American history; and

(3) World history or geography.

➥ *A pupil is not required to* ~~*[earn the minimum]*~~ *enroll in the courses of study and credits required by this subsection if the pupil, the parent or legal guardian of the pupil and an administrator or a counselor at the school in which the pupil is enrolled mutually agree to a modified course of study for the pupil* ~~*[.]*~~ *and that modified course of study satisfies at least the requirements for a standard high school diploma or an adjusted diploma, as applicable.*

3. Except as otherwise provided in this subsection, in addition to the core academic subjects, the following subjects must be taught as applicable for grade levels and to the extent practicable in all public schools, the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS:

(a) The arts;

(b) Computer education and technology;
(c) Health; and
(d) Physical education.

➥ If the State Board requires the completion of course work in a subject area set forth in this subsection for graduation from high school or promotion to the next grade, a public school shall offer the required course work. Unless a subject is required for graduation from high school or promotion to the next grade, a charter school is not required to comply with this subsection.

Sec. 21. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection 2, based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English, including reading, composition and writing;
(2) Mathematics;
(3) Science;
(4) Social studies, which includes only the subjects of history, geography, economics and government;
(5) The arts;
(6) Computer education and technology;
(7) Health; and
(8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The Council shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The Council shall establish standards of content and performance for the grade levels selected by the Council for the other courses of study prescribed in subsection 1.

3. The *Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:*

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

4. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board .

➥ *The State Board* shall adopt the standards of content and performance ~~[established by the Council.~~

~~4.]~~ *or the revised standards, as applicable.*

5. The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.

Sec. 22. NRS 392.033 is hereby amended to read as follows:

392.033 1. The State Board shall adopt regulations which prescribe the courses of study required for promotion to high school, ~~[which]~~ *including, without limitation, English, mathematics, science and social studies. The regulations* may include the credits to be earned ~~[.]~~ *in each course.*

2. The board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits required for promotion. *If a pupil is retained in grade 8 pursuant to this subsection and the pupil does not complete the course of study or credits required for promotion, the pupil shall complete a program of remedial study as required by the school district. If the pupil successfully completes the program of remedial study, the board of trustees shall promote the pupil to high school. If the pupil does not successfully complete the program of remedial study, he must be retained in grade 8 until he completes the course of study or credits required for promotion or successfully completes a program of remedial study.* The board of trustees of the school district in which the pupil is enrolled ~~[may]~~ *shall* provide programs *of remedial study* to complete the courses of study required for promotion to high school.

3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this State or from a school outside of this State.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 385.3691 and 385.3692 are hereby repealed.

Sec. 25. (Deleted by amendment.)

Sec. 26. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $340,200 for the costs of a study to measure the alignment of class assignments given to pupils at selected grade levels with the standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520.

2. Before the Interim Finance Committee issues a request for proposals for a consultant to conduct the study, the Legislative Committee on Education shall select 100 public schools to participate in the study and the grade levels to be reviewed at each school. The schools must be elementary

schools, middle schools and junior high schools and the grade levels selected must not include the ninth grade.

3. After selection of the public schools and grade levels by the Legislative Committee on Education, the Interim Finance Committee shall issue a request for proposals and enter into a contract with a qualified and independent consultant to conduct the study.

4. The consultant selected by the Interim Finance Committee shall, for each school selected by the Legislative Committee on Education, review a representative sampling of class assignments given to pupils for mathematics and English language arts at the selected grade levels and determine the alignment of those assignments with the standards of content and performance for those subject areas. For each school, the consultant shall report:

(a) The type of assignments that were reviewed, including, without limitation, homework, quizzes and tests;

(b) Whether the assignments were completed independently by pupils or in groups of pupils, or with the assistance of a teacher or aide;

(c) The source of the assignments, including, without limitation, textbooks and workbooks, created by the teacher or created by the school district;

(d) The grade levels of pupils subject to review;

(e) The percentage of the assignments that are aligned to the standards; and

(f) An assessment of the depth to which the standard is covered by the assignments.

5. The consultant shall prepare a written report of the results of the findings:

(a) For each school for submission to the principal of that school.

(b) For all schools that participate in the study for submission to the:

(1) Legislative Committee on Education;

(2) Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature;

(3) State Board of Education; and

(4) Department of Education.

6. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 27. The assessment of needs conducted by the Commission on Educational Technology pursuant to NRS 388.795, as amended by section 19 of this act, for the spring semester of 2008 must include, without limitation, an assessment of:

1. The need for computer-based assessments, including, without limitation, the use of computers for the administration of the high school proficiency examination;

2. The integration of educational technology to improve the achievement and proficiency of pupils; and

3. The feasibility and costs associated with using laptop computers in lieu of traditional textbooks.

Sec. 28. The provisions of section 20 of this act apply to pupils who are enrolled in grade 9 for the 2007-2008 school year and for each school year thereafter.

Sec. 29. This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTIONS

385.3691 Membership of technical assistance partnership.

1. The membership of each technical assistance partnership established by the board of trustees of a school district for a public school pursuant to NRS 385.3661:

(a) Must consist of:

(1) At least one employee of the public school for which the partnership is established; and

(2) At least one representative of the school district.

(b) May consist of other persons, as determined by the board of trustees, in accordance with the needs of the school based upon the data and information pertaining to that school.

2. The membership of each technical assistance partnership established by the governing body of a charter school:

(a) Must consist of:

(1) At least one employee of the charter school;

(2) At least one member of the governing body of the charter school;

(3) For a charter school sponsored by the board of trustees of the school district, at least one representative of the school district, appointed by the school district; and

(4) For a charter school sponsored by the State Board, at least one representative of the Department, appointed by the Department.

(b) May consist of other persons, as determined by the governing body, in accordance with the needs of the charter school based upon the data and information pertaining to that charter school.

385.3692 Powers and duties of technical assistance partnership; completion and submission of form concerning review and analysis of school; Department required to prescribe form for use by partnership.

1. Each technical assistance partnership established for a public school shall complete a form prescribed by the Department pursuant to this section or an expanded form, if applicable, that includes:

(a) A review and analysis of the operation of the school, including, without limitation, the design and operation of the instructional program of the school;

(b) A review and analysis of the data pertaining to the school based upon the report required pursuant to subsection 2 of NRS 385.347 and a review and analysis of any data that is more recent;

(c) A review of the most recent plan to improve the achievement of the school's pupils; and

(d) An identification of the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

2. Each technical assistance partnership established for a public school shall:

(a) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school; and

(b) Adopt, in consultation with the employees of the school, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Include the data and findings of the technical assistance partnership that provide support for the revisions;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the technical assistance partnership, outside experts;

(3) Set forth a timeline to carry out the revisions;

(4) Set forth priorities for the school in carrying out the revisions; and

(5) Set forth the names and duties of each person who is responsible for carrying out the revisions.

3. On or before November 1 of each year, each technical assistance partnership shall submit the form completed pursuant to subsection 1 to the:

(a) Department;

(b) Bureau;

(c) Board of trustees of the school district or governing body of the charter school, as applicable; and

(d) Principal of the school.

4. The Department shall, in consultation with the Bureau:

(a) Prescribe a form that contains the basic information for a technical assistance partnership to carry out its duties pursuant to subsection 1; and

(b) Make the form available on a computer disc for use by technical assistance partnerships and, upon request, in any other manner deemed reasonable by the Department.

5. Except as otherwise provided in this subsection, each technical assistance partnership shall use the form prescribed by the Department to carry out its duties pursuant to subsection 1. A school district or governing body of a charter school may prescribe an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

6. A technical assistance partnership may require the school for which the partnership was established to submit plans, strategies, tasks and measures that, in the determination of the partnership, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

Senator Raggio moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 184.

Remarks by Senator Raggio.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 142, 147, 163, 206, 219, 243, 267, 293, 300, 396; Assembly Bills Nos. 42, 56, 68, 201, 215, 230, 235, 259, 359; Assembly Joint Resolution No. 3.

Senator Raggio moved that the Senate adjourn until Saturday, May 26, 2007, at 10 a.m.

Motion carried.

Senate adjourned at 11:47 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate