

**THE SEVENTY-FOURTH DAY**

---

CARSON CITY (Thursday), April 16, 2009

Senate called to order at 11:42 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Monte Fast.

From proud Nevadans.

For three days we proudly hear from our Congressional Representatives. These men and women represent all Nevada citizens from both political parties. They, and we, remember that once elected, those who have won serve those who voted for them as well as those who voted for their opponents.

Let us follow the golden rule and love and serve our neighbor as we would serve ourselves.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford 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 Energy, Infrastructure and Transportation, to which were referred Assembly Bills Nos. 169, 172, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

*Mr. President:*

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 239, 376, 377, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

*Mr. President:*

Your Committee on Health and Education, to which were referred Senate Bills Nos. 229, 259, 290, 340, 383, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Education, to which was referred Senate Bill No. 71, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and rerefer to the Committee on Finance.

VALERIE WIENER, *Chair*

*Mr. President:*

Your Committee on Judiciary, to which was referred Senate Bill No. 182, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

*Mr. President:*

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 212, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

*Mr. President:*

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 132, 137, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Natural Resources, to which was rereferred Senate Bill No. 186, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

#### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 15, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Joint Resolutions Nos. 7, 10.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 56, 59, 71, 89, 97, 105, 116, 190, 204, 226, 230, 232, 243, 263.

DIANE M. KEETCH

*Assistant Chief Clerk of the Assembly*

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that through April 21, 2009, all Senate bills and joint resolutions just reported out of committee be immediately placed on the appropriate reading file, on the next agenda, time permitting.

Motion carried.

Senator Schneider moved that Senate Bill No. 242 be taken from the Secretary's desk and placed on the Second Reading File on the next agenda.

Motion carried.

Senator Carlton moved that Senate Bill No. 57 be taken from the General File and placed on the General File on the next agenda.

Motion carried.

Senator Care requested that his name be added as a sponsor to Senate Bill No. 292.

Senator Amodei requested that his name be removed as a sponsor to Senate Bill No. 292.

Senator Amodei moved that Senate Bill No. 292 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Joint Resolution No. 7.

Senator Care moved that the resolution be referred to the Committee on Judiciary.

Motion carried.

Assembly Joint Resolution No. 10.

Senator Schneider moved that the resolution be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

The Sergeant at Arms announced that Assemblymen Bobzien and Christensen were at the bar of the Senate. Assemblyman Bobzien invited the Senate to meet in Joint Session with the Assembly to hear Senator John Ensign.

The President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:57 a.m.

#### IN JOINT SESSION

At 12:03 p.m.

President Krolicki presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present except Assemblyman Hardy, who was excused.

The President appointed a Committee on Escort consisting of Senator Nolan and Assemblyman Hogan to wait upon the Honorable Senator John Ensign and escort him to the Assembly Chamber.

Senator Ensign delivered his message as follows.

#### MESSAGE TO THE LEGISLATURE OF NEVADA SEVENTY-FIFTH SESSION

Thank you, Madam Speaker and distinguished leaders, fellow Legislators and honored guests. It is wonderful to be back here. This is a great tradition that we have in the State of Nevada, being a smaller state and having all of our federal Legislators being able to come before our State Legislature and be able to address you once every two years. I stand before you as a fourth-generation Nevadan, and I am mindful of the chapter being written in our State's history. I am optimistic that the lesson of this challenging time will ultimately be one of resilience. It will be a story of how we launched a new era of opportunity in our great State of Nevada.

In nearly 145 years, our State has witnessed times of unprecedented growth and times of great challenge. Today, we are facing difficult times that require really tough choices and strong leadership. But, we know from history that more plentiful times are as close as our vision allows. The thread that has always pulled us out of the difficult times has been a spirit of innovation that seems to breed in our State. Mining has been a bedrock of our Country from the early days of Dayton and the Comstock and is still doing extremely well today. The construction of Hoover Dam in 1931 pumped millions of dollars into the local economy. That year we also ended the ban on gambling, which was a major boost to the economy and still exists today. Large-scale federal efforts also seem to flock to Nevada, like the Army Air Corp Gunnery School that became Nellis Air Force Base, which was created in 1941; Stead Air Force Base in Reno, created in 1942; and the Naval Air Station in Fallon. And, in 1950, construction started on what would become the Nevada Test Site. With these projects came thousands of civilian and military

workers. Their benefits continue to pay off today. Nellis Air Force Base is an example. It has pumped hundreds of millions of dollars into the economy of southern Nevada.

With the resources that we have available in our community colleges, our universities and our facilities, such as the Desert Research Institute and the Nevada Test Site, we should be opening new doors of opportunity and leading the way in renewable-energy growth and development. It is time to take Nevada and make it the epicenter of scientific and technological advancement.

I was excited this week to host a renewable-energy grant workshop in Reno. We had nearly 400 Nevadans who participated to learn about the grant and loan opportunities and the new changes in the tax laws that are available for renewable energy. This is a significant sign that the people of this State are embracing our new role in the future of renewable energy and are excited about its possibilities. We are definitely witnessing a change in our landscape. The era of Yucca Mountain is, by most accounts, over. For years, we chipped away at the funding and we screamed and shouted when the Department of Energy ignored science and was less than forthright. We used the justice system to keep the process open and accountable. We worked together, Republicans and Democrats, to ensure that we wouldn't be the dumping ground for the rest of the Country's nuclear waste. I am looking forward to a time in the very near future when we come together, not for a ribbon-cutting ceremony at Yucca Mountain, but to put the final nail in the coffin of Yucca Mountain.

Yucca Mountain is part of our past, and a bright new future is on the horizon. More and more solar panels are popping up across our deserts. Windmills are proposed across several parts of our State, and geothermal is surging in places like Reno, Fallon and the Dixie Valley. Several years ago, we changed the way the proceeds from geothermal-energy leasing were distributed. I think that was your bill, Governor Gibbons. They were modeled after the onshore oil and gas-leasing system which has so greatly benefited states like Alaska. Right now, Nevada gets about 75 percent of the proceeds derived from the sale of geothermal electricity. There is no reason why we shouldn't benefit from solar and wind projects as well. That is why, next week, I will be introducing in the U.S. Senate the Renewable Energy Permitting Act. States like Nevada, with tremendous renewable-energy resources and an abundance of federal land, should be able to share in the proceeds from solar and wind development. With the formula that we will utilize, the State of Nevada and local governments will be able to collect millions of dollars in revenue. I think that should be good news to bodies like this in the future.

My greatest concerns as we lay the groundwork for this new era of opportunity in Nevada are whether we will have the scientists, the engineers, the inventors to sustain the kind of innovation that we want to be capable of. The time has come to make waves in Nevada education. We need to shake the system to its core and to rebuild the fundamentals of the classrooms in schools. We have to do this so our students have the tools that they need to take this State beyond just words of ambition. The defeatist attitude that says that we cannot change is not acceptable. No longer can we put special interests in front of educating our children. It is time to put the students first in more than just rhetoric.

We have some tremendous examples of what happens when we give first-class educators ownership of their schools. In Las Vegas, the writing was on the chalkboard for West Middle School just a few years ago. This school was persistently dangerous and consistently the lowest performing middle school in all of southern Nevada. One hundred percent of the students came from low-income households, and 92 percent of the students were either black or Hispanic. These children had not just been left behind, their futures were sort of swept under the rug for someone else to deal with. Fortunately, there are educators who will never settle for that. Associate Superintendent Dr. Edward Goldman asked to take the school under his belt. He hired a young, hungry principal named Dr. Mike Barton and made sure that the school had empowerment-level funding. He also gave Dr. Barton tremendous reign over the school. That was in April of 2006. Today, the campus known as West Prep is a study in education innovation. They extended the school day by an hour and provide a third semester of voluntary summer school, which 40 percent of the kids voluntarily sign up for. The students wear uniforms. There is a newcomer track for students who are new to the United States and are not proficient in English. Science and math classes are divided by gender. There is a law enforcement class that collaborates with the FBI, and a men-mentoring-men program. Both are keeping kids out of the dean's office, and students feel safe to go to school. Most importantly, they are finally learning.

When I visited the school, there was a chemistry lab. There was a young, African American girl there who looked really excited to get into her experiment. I walked up to her and said, "Can I interrupt you just for a moment?" She was there before the changes were made in the school. I asked, "What is the difference between now and what it was like before?" She responded, almost shockingly, to me. "The difference is, today, we get to learn." The test results in this school reflect that learning. The school has seen phenomenal test-score growth, but there is still a lot of work to do. But, there is a "can do" feeling in that school that has spread throughout the whole community. The school has expanded to the eleventh grade and will graduate its first senior class next year. Dr. Barton was given the freedom to lead the school. He is not tied down by bureaucracy. He spends most of his time in the school as opposed to going to school district meetings, which, if you have talked to school principals, they go to almost every single day.

By the way, he can get rid of teachers that are bad. As a matter of fact, when he took over the school, out of the 65-plus teachers they had at the school—before he would take over the school, it was one of the things he asked for—he wanted the teachers that actually wanted to teach. He kept about eight of them. The rest of them he recruited from around the rest of the valley, and they want to be there, helping in this education innovation. Now, he has a team in place that he knows will motivate his students and help them reach their potential.

We are fortunate to have many talented educators leading our schools and in our classrooms, such as Carrie Larson of C.T. Sewell Elementary School in Las Vegas and Gayle Magee of Empire Elementary School right here in Carson City. They were both recognized last year with the prestigious Milken Educator Award. Unfortunately, not enough of them are given the freedom to make a real difference, though, in our children's lives. Some of the most proven methods of improving education are to give schools more freedom, give parents more choice, and inspire students to learn. The one way to do that is to encourage competition in our educational system. Less than a decade ago in New York City, two out of three public schools were underperforming and graduation rates were unmoved. Under a mayor-controlled system, charter schools have expanded now from 20 to 100. With increased competition, test scores have improved, and 10,000 additional students are now graduating. In addition, the gap between African Americans and Hispanics and whites and Asians is decreasing. Arnie Duncan, our new Secretary of Education under President Obama, recently visited New York City. Based on data on charter schools, he said, "Graduation rates are up. Test scores are up. Teacher salaries are up. Social promotion was eliminated. Dramatically increasing parental choice—that's real progress."

New York City is just one of the many communities that is shaking up education in order to improve opportunities for their students. Washington, D.C. was another one. I led an effort last month to reinstate funding for the District of Columbia Opportunity Scholarship Program, which has provided vouchers for 1,700 poor children in Washington, D.C. It is a five-year-old program. The average income of recipients' families is \$23,000 a year. The overwhelming majority of them are minorities. For these students, the program is a lifeline. I had the privilege of meeting many of these students, and they are incredible kids. They are able to escape the dangers of failing schools and start planning for a future that they otherwise could not even dream of. Unfortunately, special interest politics have derailed those dreams. An effort to extend the program was killed in the U.S. Senate. Those 1,700 kids who dared to think beyond their situation now may be forced to return to their failing schools. But, the lessons of that program and the children and their experiences will prevail. We cannot afford to let politics or our egos or special interests dictate our children's futures.

There is not just one good answer, one silver bullet, to the problems facing education in our State and in our Country. We need a comprehensive reform that takes into account teacher merit pay, vouchers, public school choice and charter schools. There is not one model that is right for every student. We know that. That is why we have to make different models available so that our children and our students can excel.

My son Michael is currently enrolled in a private school in Las Vegas for special needs kids. We are fortunate to be able to send him to that school. While there are public schools that serve the student population, they may not be right for every student with special needs or a learning disability. That is why I will soon introduce legislation to provide scholarships for students enrolled in special education to attend private or public schools of their parent's choice. They would be federally funded scholarships, available to all students with disabilities. Each voucher

would be paid entirely from a portion of federal pooled IDEA (Individuals With Disabilities Education Act) money that is provided to each state. Parents could supplement the voucher if they wish. This could be especially helpful for those students with autism spectrum disorders who often struggle to find the right educational situation. A voucher program for disabled students in Florida has proven incredibly successful.

Just as we need new models for students with disabilities, we also need a new focus on the gifted kids in our schools. Most of you are aware of the fabulous work that the Davidsons are doing at the Davidson Academy and all the special people who are there on the campus of UNR. They bring together some of the very brightest young people, and they give them the tools to learn at whatever pace they can handle. They and many others believe that it makes no sense to keep a ten-year-old in a basic math classroom when that ten-year-old can learn college calculus. Unfortunately, too many of our gifted students are not challenged and end up being made fun of. Twenty percent of high school dropouts are gifted students. These kids are often teased and called names, instead of encouraged to reach their potential. It is often assumed that because they are gifted, they are resourceful enough to get by. Is that what we really want? For them to just get by? Instead, imagine a school system where children are allowed to learn at the pace their brain can handle. Imagine more Davidson-type academies. Imagine Nevada, our State, becoming the State that is known for encouraging gifted kids to reach their potential. By the way, it would not take more money to achieve this. But, we will have to rethink how we treat gifted kids. A few states have programs that are working, but no state has a comprehensive program to deal with the gifted. You have the opportunity to do that. I hope you will consider it for the future of our children and the future of our State.

The ultimate goal for all of our children needs to be focused on teaching and preparing them to be productive and contributing members of our society. That means we also need to ramp up efforts so that our students can compete with their peers around the world in math, science technology and engineering. There is no question that these are the fields of the future. As we look to make Nevada the epicenter of renewable energy and technology and medicine, we will desperately need people to fill these roles. There have been some wonderful efforts across the State and most often taken on by teachers who have inspired their students. Programs like the Nevada Regional Science Bowl and the First Robotics Competition are also igniting a passion for science and engineering that we need to continue to fan. These all seem like lofty ambitions at a time of such economic uncertainty, but we can look for innovative ways to make changes that do not deplete already desperate budgets.

There is no getting around the fact that this Legislature is facing excruciating decisions. I know that some of you are frustrated by my opposition to the recent stimulus bill. I believe that the stimulus bill was riddled with problems. First of all, the housing crisis is at the heart of the economic downturn. I think that everyone understands that, especially here in our State. I believe that the stimulus bill should have addressed the housing problem first, and that is why I offered a bill called Fix Housing First. It would have allowed most Nevadans to refinance, or if they were going to buy a home, at around what today would be less than a 4 percent interest rate, fixed for 30 years. The average Nevada family would have had extra income of over \$400 per month for 30 years. That is money they could have counted on spending to help the economy. That would have happened, by the way, across the Country. As the economy goes for the Country, the economy of Nevada also goes. We would have also given a \$15,000 tax credit to buy a home. It seems to make sense. Housing is hurting, and we need to stimulate home buying in the United States. Just imagine if we had 4 percent or less interest rates today and a \$15,000 tax credit to buy homes. Imagine the help that would happen to our State's economy as well as the economy of the United States. Instead, we have the stimulus bill that passed and the spending bills that are lining up after it; these will cost future generations of Nevadans. They will provide some help. They will provide some stimulus. But, I believe and the reason I voted against it is because the long-term debt that is added on to our children and our grandchildren was not worth the price that was being paid.

You see, in Washington, D.C., we are spending money we do not have. I actually respect the job that you have. You have to balance your budget. It is a constitutional requirement. Your job is much more challenging than ours in Washington, D.C. You see, we get to print money. It is money we do not have, but we get to print it. Your job is much, much more difficult. The reality

is, though, that Nevadans are hurting. They are struggling. Foreclosures, bankruptcies, unemployment—they are the buzzwords of a deep and painful recession. But, they do not have to be the defining words. Instead, we can turn to the innovation that has always been our answer in difficult times. During the Fourth of July celebration of 1915, Nevada pioneer judge C.C. Goodwin made this observation about Nevada's founders: "They found some obstacles in their way, which it seemed impossible to surmount. But, they surmounted them. They found some problems that it seemed impossible to solve. But, they solved them."

I look forward to working with all of you to solve what seem like impossible problems of today and to overcome the obstacles which seem insurmountable. I am going to leave you with a challenge. Just as the pioneers throughout Nevada's history turned adversity into opportunity, let us see this day of hardship and difficulty as the greatest opportunity of all. We can all agree on the importance of coming together—Republicans, Democrats, Independents alike—for the future of this State and blazing a new trail forward. Nevadans deserve nothing less.

Thank you. God bless you. God bless our State and our Country.

Senator Copening moved that the Senate and Assembly in Joint Session extend a vote of thanks to Senator Ensign for his timely, able and constructive message.

Motion carried.

The Committee on Escort escorted Senator Ensign to the bar of the Assembly.

Senator Cegavske moved that the Joint Session be dissolved.

Motion carried.

Joint Session dissolved at 12:30 p.m.

#### SENATE IN SESSION

At 1:34 p.m.

President Krolicki presiding.

Quorum present.

#### INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 413—AN ACT relating to apprenticeships; eliminating the duty of the Labor Commissioner to oversee private apprenticeship programs; and providing other matters properly relating thereto.

Senator Mathews moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 56.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 59.

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

Motion carried.

Assembly Bill No. 71.

Senator Care moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 89.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 97.

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

Motion carried.

Assembly Bill No. 105.

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

Motion carried.

Assembly Bill No. 116.

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

Motion carried.

Assembly Bill No. 190.

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

Motion carried.

Assembly Bill No. 204.

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

Motion carried.

Assembly Bill No. 226.

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

Motion carried.

Assembly Bill No. 230.

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

Motion carried.

Assembly Bill No. 232.

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

Motion carried.

Assembly Bill No. 243.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 263.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

#### SECOND READING AND AMENDMENT

Senate Bill No. 73.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 239.

"SUMMARY—Revises provisions governing energy conservation and efficiency standards. (BDR 58-438)"

"AN ACT relating to energy; revising the role of local governing bodies in enforcing standards for conservation of energy and energy efficiency; revising provisions relating to the use of electric resistance for heating spaces; requiring that applications for a partial abatement of certain property taxes be filed with various offices; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires local governing bodies that may adopt their own building codes to incorporate the standards for conservation of energy and energy efficiency adopted by the Director of the Office of Energy into their building codes, or to incorporate stricter standards, and then to enforce such standards. Section 2 of this bill: (1) revises the circumstances under which it is permissible to use electric resistance for the heating of spaces; and (2) requires the owner of a building seeking to use electric resistance for the heating of spaces to apply for permission from the local governing body. Section 3 of this bill removes the requirement that the Office of Energy provide copies of an application for a partial abatement of taxes for the use of green building standards to certain other offices and instead requires the applicant to file copies of his application with those other offices. Section 3 also adds the board of county commissioners and, if the property is located within the boundaries of a city, the city manager and city council.

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

Section 1. NRS 701.220 is hereby amended to read as follows:

701.220 1. The Director shall adopt regulations for the conservation of energy in buildings, including manufactured homes. Such regulations must include the adoption of the most recent version of the International Energy Conservation Code, issued by the International Code Council, and any amendments to the Code that will not materially lessen the effective energy savings requirements of the Code and are deemed necessary to support effective compliance and enforcement of the Code, and must establish the minimum standards for:

- (a) The construction of floors, walls, ceilings and roofs;
- (b) The equipment and systems for heating, ventilation and air-conditioning;
- (c) Electrical equipment and systems;
- (d) Insulation; and
- (e) Other factors which affect the use of energy in a building.

↪ The regulations must provide for the adoption of the most recent version of the International Energy Conservation Code, and any amendments thereto, every third year.

2. The Director may exempt a building from a standard if he determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the Director are the minimum standards for the conservation of energy and energy efficiency ~~[which apply only to areas in which the governing body of the local government has not adopted standards for the conservation of energy and energy efficiency in buildings. Such governing bodies shall assist the Director in the enforcement of the regulations adopted pursuant to this section.]~~ *in buildings in this State. The governing body of a local government that is authorized by law to adopt and enforce a building code:*

*(a) Except as otherwise provided in paragraph (b), shall incorporate the standards adopted by the Director in its building code;*

*(b) May adopt higher or more stringent standards ~~[if approved by]~~ and must report any such higher or more stringent standards, along with supporting documents, to the Director; and*

*(c) Shall enforce the standards adopted.*

5. The Director shall solicit comments regarding the adoption of regulations pursuant to this section from:

- (a) Persons in the business of constructing and selling homes;
- (b) Contractors;
- (c) Public utilities;
- (d) Local building officials; and
- (e) The general public,

↪ before adopting any regulations. The Director must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before he may adopt any regulations pursuant to this section.

Sec. 2. NRS 701.230 is hereby amended to read as follows:

701.230 1. In a county whose population is 100,000 or more, a building whose construction, ~~or retrofit that ~~changes~~ replaces the heating ~~system~~~~ source of the premises, exclusive of maintenance, began on or after October 1, 1983, must not contain a system using electric resistance for heating spaces unless:

- (a) The system is merely supplementary to another means of heating;
- (b) Under the particular circumstances, no other primary means of heating the spaces is ~~feasible or economical alternative to heating by~~ possible other than electric resistance; ~~or~~
- (c) ~~[The Office of Energy determines that the present or future availability of other sources of energy is so limited as to justify the use of such a system.]~~ *The system is a hydronic radiant heating system or a system that uses ground-source heat pumps or water-source heat pumps; or*
- (d) *The system using electric resistance for heating spaces uses electricity produced from renewable energy systems that exist on the owner's property, including, without limitation, net metering systems.*

2. *The owner of a property who seeks to use a system using electric resistance for heating spaces must submit an application for an exception pursuant to subsection 1 to the governing body of the applicable local government before beginning construction or retrofitting of the system.*

3. *The governing body of the local government:*

- (a) *Shall enforce subsection 1;*
- (b) *Shall determine whether the property owner is eligible for an exception pursuant to subsection 1 within 30 days after receiving a complete application from the owner of the property; and*
- (c) *Shall forward its decision to the owner of the property and to the Director.*

4. This section does not prohibit the use of incandescent or fluorescent lighting.

5. *As used in this section, "electric resistance" means passing an electric current through a resistance, coil, wire or other obstacle which impedes electricity and causes it to produce heat.*

Sec. 3. NRS 701A.110 is hereby amended to read as follows:

701A.110 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

(I) Chief of the Budget Division of the Department of Administration;

(II) Department of Taxation;

(III) County assessor;

(IV) County treasurer;

(V) Commission on Economic Development;

(VI) Board of county commissioners; and

(VII) City manager and city council, if any.

2. As soon as practicable after the Director receives ~~the~~

~~(a) The application required by subsection 1, the Director shall forward a copy of that application to the:~~

~~(1) Chief of the Budget Division of the Department of Administration;~~

~~(2) Department of Taxation;~~

~~(3) County assessor;~~

~~(4) County treasurer; and~~

~~(5) Commission on Economic Development.~~

~~(b) The~~ the application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

~~(1)~~ (a) Department of Taxation;

~~(2)~~ (b) County assessor;

~~(3)~~ (c) County treasurer; and

~~(4)~~ (d) Commission on Economic Development.

3. As soon as practicable after receiving a copy of:

(a) An application pursuant to *subparagraph (3) of paragraph (a) of subsection 2*:  
~~1:~~

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to ~~paragraph (b) of~~ subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

↪ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

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

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Senator Schneider requested that his remarks be entered in the Journal.

Amendment No. 239 to Senate Bill No. 73 revises provisions governing energy conservation, energy-efficiency standards with the Office of Energy for the Governor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 278.

Bill read second time.

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

Amendment No. 298.

"SUMMARY — ~~Authorizes the establishment of health districts in certain less populous counties.~~ Requiring the Legislative Committee on Health Care to study certain issues concerning the provision of public health. (BDR ~~40-1061~~) S-1061)

"AN ACT relating to health districts; ~~providing for~~ requiring the Legislative Committee on Health Care to study the establishment of a health district in a county whose population is less than 100,000; ~~specifying the~~

~~powers, duties and authority of the district board of health of such a health district; authorizing the district board of health to levy an ad valorem tax, impose a sales and use tax and issue general and special obligations; providing that certain limitations upon revenue from ad valorem taxes do not apply to revenue from a tax levied by the district board of health; providing that an ad valorem tax imposed by the district board of health is exempt from certain partial abatements from taxation under certain circumstances; providing that an obligation issued by the district board of health is subject to the provisions of the Local Government Securities Law;}~~ requiring the Legislative Committee on Health Care to study issues concerning the consolidation and integration of public health and social services in a county whose population is 400,000 or more; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law requires the establishment of a health district in a county whose population is more than 400,000 (currently Clark County) and authorizes the establishment of a health district in a county whose population is less than 400,000 (currently counties other than Clark County). (NRS 439.362, 439.370)~~

~~Sections 2-17 of this bill authorize the establishment of a health district in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). Section 3 authorizes the establishment of a health district by a single county or two or more adjacent counties with the approval of the State Board of Health. Sections 4 and 5 require the abolition of any county board of health within the health district.~~

~~Sections 6 and 7 prescribe the membership of the district board of health and the terms of the appointed members of the board. Sections 8-14 prescribe the general powers, duties and authority of the district board of health.~~

~~Section 15 authorizes the district board of health to: (1) impose a tax upon all taxable property within the health district at a rate of not more than 15 cents on each \$100 of assessed valuation; (2) impose a tax at the rate of up to one quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the health district; and (3) issue general or special obligations.~~

~~Sections 15, 28 and 29 of this bill provide that the limitations in chapter 354 of NRS upon revenue from taxes ad valorem do not apply to revenue from a tax levied by the district board of health. (NRS 354.59811, 361.453) Section 30 of this bill additionally provides that the amount of any ad valorem tax imposed pursuant to section 15 is exempt from certain partial abatements from taxation provided pursuant to chapter 361 of NRS for the first fiscal year in which the tax is imposed. (NRS 361.4726) Section 16 requires that any regulation of the district board of health that imposes a tax on the gross receipts of any retailer contain provisions substantially similar to the provisions of the Local School Support Tax Law. (Chapter 374 of NRS) Sections 15 and 20-26 of this bill provide that any general or special~~

~~obligation issued by the district board of health must comply with the provisions of the Local Government Securities Law. (NRS 350.020, 350.500-350.720)~~

~~Section 17 provides that any regulation proposed by the district board of health to impose or increase a tax must be approved by: (1) the affirmative vote of at least two thirds of the members of the district board of health; and (2) the affirmative vote of at least one member of the district board of health from each county which participated in establishing the district.~~

~~*This bill requires the Legislative Committee on Health Care to study: (1) the feasibility of establishing a health district in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties); and (2) the feasibility of consolidating or integrating certain public health and social services provided in a county whose population is 400,000 or more (currently Clark County).*~~

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

Section 1. ~~[Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 2. ~~[The provisions of sections 2 to 17, inclusive, of this act apply to a county whose population is less than 100,000.] (Deleted by amendment.)~~

Sec. 3. ~~[By affirmative vote of:~~

~~1. The board of county commissioners of a county; or~~

~~2. The boards of county commissioners of two or more adjacent counties;~~

~~and with the approval of the State Board of Health, there may be established a health district with a health department consisting of a district health officer and a district board of health.] (Deleted by amendment.)~~

Sec. 4. ~~[If any county establishes a district board of health, the county board of health must be abolished, and the district board of health must be given the same powers, duties and authority that the county board of health had before the establishment of the district board of health.] (Deleted by amendment.)~~

Sec. 5. ~~[If two or more adjacent counties establish a district board of health, all county boards of health in that district must be abolished.] (Deleted by amendment.)~~

Sec. 6. ~~[1. For a district board of health established by a single county, the district board of health must consist of:~~

~~(a) The members of the board of county commissioners;~~

~~(b) The district health officer; and~~

~~(c) One member who is a physician licensed to practice medicine in this State and who practices medicine within the boundaries of the health district, to be appointed by the district board of health.~~

~~2. If the district board of health does not appoint the member described in paragraph (c) of subsection 1 within 30 days after the organization of the district health department, the State Health Officer may appoint the member.~~

~~3.— The members of the board of county commissioners and the district health officer serve as ex officio members of the district board of health. The appointed member of the district board of health serves a term of 2 years. A vacancy must be filled in the same manner as the original appointment for the remainder of the unexpired term. (Deleted by amendment.)~~

~~Sec. 7. 1.— For a district board of health established by two or more adjacent counties, the district board of health must consist of:~~

~~(a) Two members of the board of county commissioners in each such county in which the board of county commissioners consists of five members, appointed by the respective board of county commissioners;~~

~~(b) One member of the board of county commissioners in each such county in which the board of county commissioners consists of three members, appointed by the respective board of county commissioners;~~

~~(c) The district health officer; and~~

~~(d) One member who is a physician licensed to practice medicine in this State and who practices medicine within the boundaries of the health district, to be appointed by the district board of health.~~

~~2.— If the district board of health does not appoint the member described in paragraph (d) of subsection 1 within 30 days after the organization of the district health department, the State Health Officer may appoint the member.~~

~~3.— The district health officer serves as an ex officio member of the district board of health. The appointed members of the district board of health serve terms of 2 years. A vacancy must be filled in the same manner as the original appointment for the remainder of the unexpired term. (Deleted by amendment.)~~

~~Sec. 8. 1.— The district board of health shall meet in January of each year to organize and elect a chairman and a secretary from among its members.~~

~~2.— The district board of health may meet at such other times and in such locations as the board determines by resolution.~~

~~3.— Special meetings may be held upon notice to each member of the district board of health as often as and in such places within the health district as the needs of the board require.~~

~~4.— A majority of the members of the district board of health constitutes a quorum but, except as otherwise provided in section 17 of this act, a majority of the board is required to exercise any power conferred on the board.~~

~~5.— The district board of health shall adopt written policies and procedures for administering the board and maintaining its programs, projects and activities.~~

~~6.— The district board of health shall maintain records of all proceedings and minutes of all meetings, which must be open to inspection.~~

~~7.— The members of the district board of health serve without additional compensation for their services, but are entitled to reimbursement for necessary expenses for attending meetings or otherwise engaging in the business of the district board of health. (Deleted by amendment.)~~

Sec. 9. ~~[1. The district board of health shall appoint a district health officer for the district.~~

~~2. The district health officer must be appointed on the basis of his graduate education in public health, his training, his experience and his interest in public health and related programs.~~

~~3. The district health officer has full authority as a county health officer in the health district.~~

~~4. Any clinical program of a district board of health which requires medical assessment must be carried out under the direction of a physician.~~

~~5. The district health officer is entitled to receive a salary fixed by the district board of health and serves at the pleasure of the board. (Deleted by amendment.)~~

Sec. 10. ~~[The district board of health may designate the county treasurer of a county within the health district to act as the ex officio treasurer of the health district, or it may designate any other qualified person to fill the office. The treasurer of the health district shall:~~

~~1. Keep permanent accounts of all money received by, disbursed for and on behalf of the health district; and~~

~~2. Administer the health district fund created by the district board of health pursuant to section 12 of this act. (Deleted by amendment.)~~

Sec. 11. ~~[The district board of health shall prepare an annual operating budget for the health district. (Deleted by amendment.)~~

Sec. 12. ~~[1. The district board of health shall create a health district fund:~~

~~2. The money in the fund may only be used to provide funding for the health district. (Deleted by amendment.)~~

Sec. 13. ~~[1. The district board of health may:~~

~~(a) Receive and disburse money from the Federal Government;~~

~~(b) Submit project applications and programs of projects to federal agencies; and~~

~~(c) Enter into formal agreements with federal agencies concerning projects and programs.~~

~~2. The district board of health may accept and disburse contributions from private sources, the State, and the counties, cities and towns within the jurisdiction of the board to match federal money for any project or program. All such contributions must be deposited with the treasurer of the district board of health for credit to the health district fund created by the district board of health pursuant to section 12 of this act. (Deleted by amendment.)~~

Sec. 14. ~~[1. The district board of health has the powers, duties and authority of a county board of health in the health district.~~

~~2. The district health department has jurisdiction over all public health matters in the health district, except in matters concerning emergency medical services pursuant to the provisions of chapter 450B of NRS.~~

~~3. In addition to any other powers, duties and authority conferred on a district board of health by this section, the district board of health may adopt~~

~~regulations consistent with law, which must take effect immediately on their approval by the State Board of Health, to:~~

- ~~(a) Prevent and control nuisances;~~
- ~~(b) Regulate sanitation and sanitary practices in the interests of the public health;~~
- ~~(c) Provide for the sanitary protection of water and food supplies;~~
- ~~(d) Provide for mental health services;~~
- ~~(e) Provide for services relating to the prevention and treatment of alcohol and drug abuse;~~
- ~~(f) Provide for the coordination of the activities of the health district with the activities of any local organization for emergency management within the health district; and~~
- ~~(g) Protect and promote the public health generally in the geographical area subject to the jurisdiction of the health district.~~

~~4. The district board of health must provide notice not less than 30 days before the adoption, amendment or repeal of any regulation. The notice must:~~

- ~~(a) Include a statement of either the terms or substance of the proposal or a description of the subjects and issues involved, and of the time, place and manner in which interested persons may present their views thereon;~~
- ~~(b) Provide each address at which the text of the proposal may be inspected and copied; and~~
- ~~(c) Be mailed to all persons who have requested in writing that they be placed on a mailing list, which must be kept by the district board of health for that purpose.~~

~~5. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing, on the intended action to adopt, amend or repeal the regulation. With respect to substantive regulations, the district board of health shall set a time and place for a public hearing, but if no one appears who will be directly affected by the proposal and requests a hearing, the district board of health may proceed immediately to act upon any written submissions. The district board of health shall consider fully all written and oral submissions respecting the proposal.~~

~~6. Each district board of health shall file a copy of all of its adopted regulations with the county clerk of each county in which it has jurisdiction.~~

~~7. As used in this section, "local organization for emergency management" has the meaning ascribed to it in NRS 414.036.] (Deleted by amendment.)~~

Sec. 15. ~~[In addition to the powers, duties and authority conferred on the district board of health pursuant to section 14 of this act:~~

- ~~1. The district board of health may adopt a regulation imposing a tax upon all taxable property within the health district at a rate of not more than 15 cents on each \$100 of assessed valuation for carrying out the activities of the health district. The revenue laws of this State shall be deemed to apply to the levying, assessing and collecting of the tax, and the tax must be collected~~

~~at the same time and in the same manner and by the same officers, exercising the same functions, as provided in those laws. The limitations in chapter 354 of NRS upon revenue from taxes ad valorem do not apply to revenue from a tax levied pursuant to this subsection.~~

~~2.—The district board of health may adopt a regulation imposing a tax at the rate of up to one quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the health district.~~

~~3.—The district board of health may issue general or special obligations to carry out the activities of the health district, including, without limitation, the acquisition and construction of facilities, acquisition of equipment or other projects in accordance with NRS 350.500 to 350.720, inclusive. Any general obligations issued pursuant to this subsection must comply with the provisions of NRS 350.020.~~

~~4.—The district board of health may pledge:~~

~~(a) Any money received from the proceeds of a tax imposed pursuant to subsection 1;~~

~~(b) Any money received from the proceeds of a tax imposed pursuant to subsection 2;~~

~~(c) The gross or net revenues derived from any facilities or projects; and~~

~~(d) The special assessments collected by the board for maintaining and operating any facilities or projects;~~

~~— for the payment of general or special obligations issued pursuant to subsection 3. For the purposes of subsection 3 of NRS 350.020 and NRS 350.500 to 350.720, inclusive, money pledged by the district board of health pursuant to this subsection shall be deemed to be pledged revenue of the project. (Deleted by amendment.)~~

Sec. 16. ~~[1.—If the district board of health adopts a regulation imposing a tax pursuant to subsection 2 of section 15 of this act, the regulation must include provisions in substance as follows:~~

~~(a) Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.~~

~~(b) A provision that all amendments to the provisions of chapter 374 of NRS subsequent to the date of enactment of the regulation, not inconsistent with this section, automatically become part of the regulation.~~

~~(c) A provision that the district board of health shall contract before the effective date of the regulation with the Department of Taxation to perform all functions incident to the administration or operation of the tax imposed pursuant to the regulation.~~

~~(d) A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption within the boundaries of the health district of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property~~

~~which was executed before the effective date of the regulation or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the additional tax.~~

~~(c) A provision that specifies the date on which the tax is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the regulation.~~

~~2.—A regulation amending the regulation adopted pursuant to subsection 2 of section 15 of this act must include a provision in substance that the district board of health shall amend a contract made pursuant to paragraph (c) of subsection 1 by a contract made between the district board of health and the Department of Taxation before the effective date of the amendatory regulation, unless the district board of health determines with the written concurrence of the Department of Taxation that no such amendment of the contract is needed.~~

~~3.—All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the local government under the regulation must be paid to the Department of Taxation in the form of remittances made payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall monthly:~~

~~(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a percentage of all fees, taxes, interest and penalties collected pursuant to the regulation during the preceding month as compensation to the State for the cost of collecting the tax. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to the regulation only.~~

~~(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the health district pursuant to the regulation during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).~~

~~(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the treasurer of the health district.~~

~~4.—The Department of Taxation may redistribute any proceeds from the fees, taxes, interest or penalties collected pursuant to the regulation which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department of Taxation obtains knowledge of the improper distribution. (Deleted by amendment.)~~

Sec. 17. ~~[Any regulation proposed by the district board of health to impose or increase a tax pursuant to subsection 1 or 2 of section 15 of this act must be approved by the~~

~~1. Affirmative vote of at least two thirds of the members of the district board of health; and~~

~~2. Affirmative vote of at least one member of the district board of health from each county which participated in establishing the health district.]~~

~~(Deleted by amendment.)~~

Sec. 18. ~~[NRS 439.369 is hereby amended to read as follows:~~

~~439.369 The provisions of NRS 439.369 to 439.410, inclusive, apply to a county whose population is 100,000 or more but less than 400,000.]~~ ~~(Deleted by amendment.)~~

Sec. 19. ~~[Chapter 350 of NRS is hereby amended by adding thereto the provisions set forth as sections 20 and 21 of this act.]~~ ~~(Deleted by amendment.)~~

Sec. 20. ~~["District board of health" means a district board of health established pursuant to sections 2 to 17, inclusive, of this act.]~~ ~~(Deleted by amendment.)~~

Sec. 21. ~~["Health district" means a health district established pursuant to sections 2 to 17, inclusive, of this act.]~~ ~~(Deleted by amendment.)~~

Sec. 22. ~~[NRS 350.504 is hereby amended to read as follows:~~

~~350.504 As used in this chapter and in any instrument or document appertaining thereto, unless the context otherwise requires, the words and terms defined in NRS 350.506 to 350.566, inclusive, and sections 20 and 21 of this act have the meanings ascribed to them in those sections.]~~ ~~(Deleted by amendment.)~~

Sec. 23. ~~[NRS 350.508 is hereby amended to read as follows:~~

~~350.508 "Chairman" or "chairman of the municipality" or any phrase of similar import means the de facto or de jure chairman of the board of county commissioners, mayor of the city or town, president of the board of trustees of the school district, chairman of the district board of health, chairman of the board of directors of any other type district, or the president thereof, or any other presiding officer or titular head of the municipality, or his successor in functions, if any.]~~ ~~(Deleted by amendment.)~~

Sec. 24. ~~[NRS 350.510 is hereby amended to read as follows:~~

~~350.510 "Clerk" means the de facto or de jure county clerk, city clerk, town clerk, clerk of the board of trustees of the school district, secretary of the district board of health, secretary or clerk of the board of directors of any other type district, or other officer of the municipality who is the custodian of any seal of the municipality and of the records of the proceedings of the municipality's governing body, or his successor in functions, if any.]~~ ~~(Deleted by amendment.)~~

Sec. 25. ~~[NRS 350.524 is hereby amended to read as follows:~~

~~350.524 "Governing body" means the board of county commissioners, city council, city commission, board of supervisors, town council, board of~~

~~trustees of the school district, district board of health, board of directors or trustees of any other type district, or other local legislative or governing body of the municipality.] (Deleted by amendment.)~~

Sec. 26. ~~[NRS 350.538 is hereby amended to read as follows:~~

~~350.538 1. "Municipality" means any county, any incorporated city or town, including, without limitation, any city or town organized under the provisions of a special legislative act or other special charter, any unincorporated town, any school district or any quasi-municipal district, including, without limitation, a health district, the Nevada rural housing authority and any district created pursuant to NRS 244.2961 or governed by title 25 of NRS, of this state, or any other public agency authorized to issue general or special obligations on behalf of any of these. Where the context so indicates, "municipality" means the geographical area comprising the municipality.~~

~~2. "Municipality" does not include an irrigation district or other special district governed by title 48 of NRS.] (Deleted by amendment.)~~

Sec. 27. ~~[NRS 354.474 is hereby amended to read as follows:~~

~~354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive:~~

~~(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, sections 2 to 17, inclusive, of this act, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.~~

~~(b) "Local government" does not include the Nevada Rural Housing Authority.~~

~~2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, in addition to the requirements of chapter 539 of NRS.~~

~~3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district~~

~~submitted to the Rural Electrification Administration of the United States Department of Agriculture.] (*Deleted by amendment.*)~~

Sec. 28. ~~[NRS 354.59811 is hereby amended to read as follows:~~

~~354.59811 1. Except as otherwise provided in NRS 244.377, 278C.260, 354.59813, 354.59815, 354.59818, 354.5982, 354.5987, 354.705, 354.723, 450.425, 450.760, 540A.265 and 543.600, and section 15 of this act, for each fiscal year beginning on or after July 1, 1989, the maximum amount of money that a local government, except a school district, a district to provide a telephone number for emergencies or a redevelopment agency, may receive from taxes ad valorem, other than those attributable to the net proceeds of minerals or those levied for the payment of bonded indebtedness and interest thereon incurred as general long term debt of the issuer, or for the payment of obligations issued to pay the cost of a water project pursuant to NRS 349.950, or for the payment of obligations under a capital lease executed before April 30, 1981, must be calculated as follows:~~

~~(a) The rate must be set so that when applied to the current fiscal year's assessed valuation of all property which was on the preceding fiscal year's assessment roll, together with the assessed valuation of property on the central assessment roll which was allocated to the local government, but excluding any assessed valuation attributable to the net proceeds of minerals, assessed valuation attributable to a redevelopment area and assessed valuation of a fire protection district attributable to real property which is transferred from private ownership to public ownership for the purpose of conservation, it will produce 106 percent of the maximum revenue allowable from taxes ad valorem for the preceding fiscal year, except that the rate so determined must not be less than the rate allowed for the previous fiscal year, except for any decrease attributable to the imposition of a tax pursuant to NRS 354.59813 in the previous year.~~

~~(b) This rate must then be applied to the total assessed valuation, excluding the assessed valuation attributable to the net proceeds of minerals and the assessed valuation of a fire protection district attributable to real property which is transferred from private ownership to public ownership for the purpose of conservation, but including new real property, possessory interests and mobile homes, for the current fiscal year to determine the allowed revenue from taxes ad valorem for the local government.~~

~~2. As used in this section, "general long term debt" does not include debt created for medium term obligations pursuant to NRS 350.087 to 350.095, inclusive.] (*Deleted by amendment.*)~~

Sec. 29. ~~[NRS 361.453 is hereby amended to read as follows:~~

~~361.453 1. Except as otherwise provided in this section and NRS 354.705, 354.723 and 450.760, and section 15 of this act, the total ad valorem tax levy for all public purposes must not exceed \$3.64 on each \$100 of assessed valuation, or a lesser or greater amount fixed by the State Board of Examiners if the State Board of Examiners is directed by law to fix a lesser or greater amount for that fiscal year.~~

~~2. Any levy imposed by the Legislature for the repayment of bonded indebtedness or the operating expenses of the State of Nevada and any levy imposed by the board of county commissioners pursuant to NRS 387.195 that is in excess of 50 cents on each \$100 of assessed valuation of taxable property within the county must not be included in calculating the limitation set forth in subsection 1 on the total ad valorem tax levied within the boundaries of the county, city or unincorporated town [,] if, in a county whose population is 40,000 or less, or in a city or unincorporated town located within that county:~~

~~(a) The combined tax rate certified by the Nevada Tax Commission was at least \$3.50 on each \$100 of assessed valuation on June 25, 1998;~~

~~(b) The governing body of that county, city or unincorporated town proposes to its registered voters an additional levy ad valorem above the total ad valorem tax levy for all public purposes set forth in subsection 1;~~

~~(c) The proposal specifies the amount of money to be derived, the purpose for which it is to be expended and the duration of the levy; and~~

~~(d) The proposal is approved by a majority of the voters voting on the question at a general election or a special election called for that purpose.~~

~~3. The duration of the additional levy ad valorem levied pursuant to subsection 2 must not exceed 5 years. The governing body of the county, city or unincorporated town may discontinue the levy before it expires and may not thereafter reimpose it in whole or in part without following the procedure required for its original imposition set forth in subsection 2.~~

~~4. A special election may be held pursuant to subsection 2 only if the governing body of the county, city or unincorporated town determines, by a unanimous vote, that an emergency exists. The determination made by the governing body is conclusive unless it is shown that the governing body acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the governing body must be commenced within 15 days after the governing body's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the governing body of the county, city or unincorporated town to prevent or mitigate a substantial financial loss to the county, city or unincorporated town or to enable the governing body to provide an essential service to the residents of the county, city or unincorporated town. *(Deleted by amendment.)*~~

Sec. 30. ~~[NRS 361.4726 is hereby amended to read as follows:~~

~~361.4726 1. Except as otherwise provided by specific statute, if any legislative act which becomes effective after April 6, 2005, imposes a duty on a taxing entity to levy a new ad valorem tax or to increase the rate of an existing ad valorem tax, the amount of the new tax or increase in the rate of the existing tax is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.~~

~~2. The amount of any tax imposed pursuant to subsection 1 of section 15 of this act is exempt from each partial abatement from taxation provided~~

~~pursuant to NRS 361.4722, 361.4723 and 361.4724 for the first fiscal year in which the tax is imposed, but is thereafter subject to each of those partial abatements from taxation.~~

~~3. For the purposes of this section, "taxing entity" does not include the State. (Deleted by amendment.)~~

~~Sec. 31. 1. The Legislative Committee on Health Care shall, during the 2009-2011 interim, study:~~

~~(a) The feasibility of establishing a health district in counties whose populations are less than 100,000, including, without limitation:~~

~~(1) The establishment of a health district by a single county or by two or more adjacent counties;~~

~~(2) The impact on each county whose county board of health is abolished upon establishing such a health district;~~

~~(3) The composition and authority of such a health district; and~~

~~(4) The manner in which such a health district may be financed; and~~

~~(b) The feasibility of consolidating or integrating certain public health and social services in counties whose populations are 400,000 or more, including, without limitation, the consolidation or integration of:~~

~~(1) Adoption services;~~

~~(2) Alcohol and drug abuse prevention services;~~

~~(3) Child abuse prevention services;~~

~~(4) Child welfare services;~~

~~(5) Delinquency prevention services;~~

~~(6) Determination of eligibility for public assistance;~~

~~(7) Employment and training services;~~

~~(8) Foster care services;~~

~~(9) Health services;~~

~~(10) Services and programs for medically indigent persons;~~

~~(11) Mental health services;~~

~~(12) Services provided to senior citizens; and~~

~~(13) Services provided to veterans.~~

~~2. The Legislative Committee on Health Care shall submit a report of the results of the study conducted pursuant to subsection 1 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.~~

~~Sec. 32. This act becomes effective on July 1, 2009.~~

Senator Wiener moved the adoption of the amendment.

Remarks by Senators Washington and Wiener.

Senator Wiener requested that the following remarks be entered in the Journal.

SENATOR WASHINGTON:

Amendment No. 298 replaces Senate Bill No. 278 and moves the two provisions in the bill to an interim study committee.

SENATOR WIENER:

This amendment would fold provisions in Senate Bill No. 322, which was heard in the Committee on Health and Education, into that same study.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 294.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 416.

"SUMMARY ~~[Revises the formula for the allocation of money distributed from the Local Government Tax Distribution Account.]~~ Authorizes certain requests for legislation and requires an interim study regarding the distribution of taxes among local governmental entities in this State. (BDR 32-1029)"

"AN ACT relating to taxation; ~~[revising the formula for]~~ authorizing the Committee on Local Government Finance to consider certain proposals and make certain requests for legislation regarding the allocation of money ~~[distributed from]~~ in the Local Government Tax Distribution Account; requiring an interim study of the distribution of taxes among local governmental entities in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the deposit of certain proceeds from liquor taxes, cigarette taxes, real property transfer taxes, city-county relief taxes and governmental services taxes into the Local Government Tax Distribution Account. (NRS 369.173, 370.260, 375.070, 377.055, 377.057, 482.181) Under existing law, the Executive Director of the Department of Taxation is required to establish a base monthly allocation from the Account for each local government and special district in a county and to allocate any proceeds which exceed that base monthly allocation in accordance with a mathematical formula that incorporates certain changes in population and assessed valuation. (NRS 360.690) ~~[This bill revises that formula for the allocation of any proceeds that exceed the base monthly allocation.]~~ Section 2 of this bill authorizes the Committee on Local Government Finance to consider proposals to revise the allocation of money from the Account and requires the Committee to submit its findings on those proposals to the Legislative Commission. Section 4 of this bill allows the Committee to request one bill draft for each regular session of the Legislature to carry out those findings.

Section 7 of this bill creates an interim committee to study the distribution of taxes among local governmental entities in this State and report the results of the study to the standing committees on taxation for the 2011 Legislature.

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

Section 1. ~~NRS 360.690 is hereby amended to read as follows:~~

~~360.690 1. Except as otherwise provided in NRS 360.730, the Executive Director shall estimate monthly the amount each local government, special district and enterprise district will receive from the Account pursuant to the provisions of this section.~~

~~2. The Executive Director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to NRS 360.680 for each local government, special district and enterprise district by 12, and the State Treasurer shall, except as otherwise provided in subsections 3 to 8, inclusive, remit monthly that amount to each local government, special district and enterprise district.~~

~~3. If, after making the allocation to each enterprise district for the month, the Executive Director determines there is not sufficient money available in the county's subaccount in the Account to allocate to each local government and special district the base monthly allocation determined pursuant to subsection 2, he shall prorate the money in the county's subaccount and allocate to each local government and special district an amount equal to its proportionate percentage of the total amount of the base monthly allocations determined pursuant to subsection 2 for all local governments and special districts within the county. The State Treasurer shall remit that amount to the local government or special district.~~

~~4. Except as otherwise provided in subsections 5 to 8, inclusive, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, he shall immediately determine and allocate each:~~

~~(a) Local government's share of the remaining money by:~~

~~(1) Multiplying one twelfth of the amount allocated pursuant to NRS 360.680 by the [sum of the:] remainder obtained by subtracting 1 from the product obtained by multiplying the following two sums:~~

~~(I) [Average] The sum obtained by adding 1 to the average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and~~

~~(II) [Average] The sum obtained by adding 1 to the average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and~~

~~(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that~~

~~the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and~~

~~(b) Special district's share of the remaining money by:~~

~~(1) Multiplying one twelfth of the amount allocated pursuant to NRS 360.680 by the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and~~

~~(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.~~

~~→ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.~~

~~5. Except as otherwise provided in subsection 6 or 7, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district and that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 or that the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure or that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 and the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure, he shall immediately determine and allocate each:~~

~~(a) Local government's share of the remaining money by:~~

~~(1) Multiplying one twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:~~

~~(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and~~

~~(H) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and~~

~~(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and~~

~~(b) Special district's share of the remaining money by:~~

~~(1) Multiplying one twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and~~

~~(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount;~~

~~↪ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.~~

~~6. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum [of] *obtained by adding* the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in each of those special districts, as~~

calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

~~6. The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.~~

7. ~~Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum [of] obtained by adding the average percentage of change in population and the average percentage of change in~~

~~the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in any of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a positive figure, he shall immediately determine and allocate each:~~

~~(a) Local government's share of the remaining money by:~~

~~(1) Multiplying one twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:~~

~~(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and~~

~~(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and~~

~~(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and~~

~~(b) Special district's share of the remaining money by:~~

~~(1) Multiplying one twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:~~

~~(I) Average percentage of change in the population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and~~

~~(II) Average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and~~

~~(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments~~

~~and special districts located in the same county multiplied by the total amount available in the subaccount.~~

~~→ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.~~

~~8. The Executive Director shall not allocate any amount to a local government or special district pursuant to subsection 4, 5, 6 or 7 unless the amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2 and the Executive Director determines there is money remaining in the county's subaccount in the Account after the distribution for the month has been made, he shall:~~

~~(a) Determine the amount by which the base monthly allocations determined pursuant to subsection 2 for each local government and special district in the county for the preceding months of the fiscal year in which the allocation is to be made exceeds the amounts actually received by the local governments and special districts in the county for the same period; and~~

~~(b) Compare the amount determined pursuant to paragraph (a) to the amount of money remaining in the county's subaccount in the Account to determine which amount is greater.~~

~~→ If the Executive Director determines that the amount determined pursuant to paragraph (a) is greater, he shall allocate the money remaining in the county's subaccount in the Account pursuant to the provisions of subsection 3. If the Executive Director determines that the amount of money remaining in the county's subaccount in the Account is greater, he shall first allocate the money necessary for each local government and special district to receive the base monthly allocation determined pursuant to subsection 2 and the State Treasurer shall remit that money so allocated. The Executive Director shall allocate any additional money in the county's subaccount in the Account pursuant to the provisions of subsection 4, 5, 6 or 7, as appropriate.~~

~~9. The percentage changes in population calculated pursuant to subsections 4 to 7, inclusive, must:~~

~~(a) Except as otherwise provided in paragraph (c), if the Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the Governor pursuant to NRS 360.285, be an estimate of the change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.~~

~~(b) If a new method of determining population is established pursuant to NRS 360.283, be adjusted in a manner that will result in the percentage change being based on population determined pursuant to the new method for both the fiscal year in which the allocation is made and the fiscal year immediately preceding the year in which the allocation is made.~~

~~(e) If a local government files a formal appeal with the Bureau of the Census concerning the population total of the local government issued by the Bureau of the Census, be calculated using the population total certified by the Governor pursuant to NRS 360.285 until the appeal is resolved. If additional money is allocated to the local government because the population total certified by the Governor is greater than the population total issued by the Bureau of the Census, the State Treasurer shall deposit that additional money in a separate interest-bearing account. Upon resolution of the appeal, if the population total finally determined pursuant to the appeal is:~~

~~(1) Equal to or less than the population total initially issued by the Bureau of the Census, the State Treasurer shall transfer the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, to the Local Government Tax Distribution Account for allocation among the local governments in the county pursuant to subsection 4, 5, 6 or 7, as appropriate.~~

~~(2) Greater than the population total initially issued by the Bureau of the Census, the Executive Director shall calculate the amount that would have been allocated to the local government pursuant to subsection 4, 5, 6 or 7, as appropriate, if the population total finally determined pursuant to the appeal had been used and the State Treasurer shall remit to the local government an amount equal to the difference between the amount actually distributed and the amount calculated pursuant to this subparagraph or the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, whichever is less.~~

~~10. On or before February 15 of each year, the Executive Director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the Account for that fiscal year.~~

~~11. On or before March 15 of each year, the Executive Director shall:~~

~~(a) Make an estimate of the receipts from each tax included in the Account on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles, including an estimate for each county of the receipts from each tax included in the Account; and~~

~~(b) Provide to each local government, special district and enterprise district an estimate of the amount that local government, special district or enterprise district would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.~~

~~12. A local government, special district or enterprise district may use the estimate provided by the Executive Director pursuant to subsection 11 in the preparation of its budget. (Deleted by amendment.)~~

*Sec. 2. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:*

*A local government or special district that desires the enactment by the Legislature of an increase in the amount of money allocated to the local government or special district pursuant to NRS 360.680 or a revision of the*

formula for the allocation of money in the Account pursuant to NRS 360.690 may submit a proposal for such an increase or revision to the Committee on Local Government Finance. The Committee on Local Government Finance shall:

1. Schedule a public hearing on the proposal and provide notice of the hearing, and a copy of the proposal, to the governing body of each local government and special district that could be affected by the proposal.

2. Provide an opportunity for any local government or special district to submit information to assist the Committee on Local Government Finance in its consideration of the proposal.

3. Consider the proposal at the public hearing and submit its findings regarding the proposal to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission.

4. Adopt such regulations, in the manner prescribed for state agencies in chapter 233B of NRS, as it determines to be appropriate for the administration of this section. The regulations may include, without limitation, a schedule for the submission and hearing of proposals pursuant to this section.

Sec. 3. NRS 360.600 is hereby amended to read as follows:

360.600 As used in NRS 360.600 to 360.740, inclusive, and section 2 of this act, unless the context otherwise requires, the words and terms defined in NRS 360.605 to 360.650, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Committee on Local Government Finance determines that any legislation would be appropriate to carry out any of the findings made by the Committee pursuant to section 2 of this act, the Committee may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare not more than one legislative measure for a regular legislative session to carry out those findings.

2. A request for the drafting of a legislative measure pursuant to this section must:

(a) Be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature; and

(b) Set forth the substance of the provisions desired and the reasons therefor.

Sec. 5. NRS 218.240 is hereby amended to read as follows:

218.240 1. The Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall prepare and assist in the preparation and amendment of legislative measures when requested or upon suggestion as provided in NRS 218.240 to 218.255, inclusive ~~and~~, and section 4 of this act. Except as otherwise provided in those provisions, the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall not prepare or assist in the preparation and amendment of legislative measures directly

submitted or requested by a natural person, corporation, firm, association or other entity, including an organization that represents governmental agencies, unless the requester, or if the requester is a natural person the office or other position held by the person, is created by the Constitution or laws of this State.

2. The Legislative Counsel shall give consideration to and service concerning any measure before the Legislature which is requested by the Governor, the Senate or Assembly, or any committee of the Legislature having the measure before it for consideration.

*Sec. 6. NRS 218.2405 is hereby amended to read as follows:*

218.2405 1. Except as otherwise provided by specific statute, joint rule or concurrent resolution of the Legislature, the Legislative Counsel shall honor:

(a) The number of requests for the drafting of a bill or resolution for a regular session of the Legislature only as provided in NRS 218.240 to 218.255, inclusive ~~+~~, *and section 4 of this act.*

(b) A request for the drafting of a bill or resolution for any session of the Legislature which is submitted by a state agency, board or department, a local government, the judiciary or another authorized nonlegislative requester only if the request is in a subject related to the function of the requester.

2. The Legislative Counsel shall not:

(a) Assign a number to a request for the drafting of a bill or resolution for any session of the Legislature to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a bill or resolution for any session of the Legislature after it has been submitted for drafting.

(c) Honor a request for the drafting of a bill or resolution for any session of the Legislature which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

*Sec. 7. 1. There is hereby created an interim committee to study the distribution of taxes among local governmental entities in this State, to consist of 11 members appointed as follows:*

*(a) The Legislative Commission shall appoint one member from among the Legislators who have experience serving as the chairman of a legislative standing committee on government affairs.*

*(b) The Board of County Commissioners of Clark County shall appoint one member from among the membership of the Board or its staff.*

*(c) The Board of County Commissioners of Washoe County shall appoint one member from among the membership of the Board or its staff.*

*(d) The City Council of the City of Henderson shall appoint one member from among the membership of the City Council or its staff.*

*(e) The City Council of the City of Las Vegas shall appoint one member from among the membership of the City Council or its staff.*

(f) The City Council of the City of North Las Vegas shall appoint one member from among the membership of the City Council or its staff.

(g) The City Council of the City of Reno shall appoint one member from among the membership of the City Council or its staff.

(h) The City Council of the City of Sparks shall appoint one member from among the membership of the City Council or its staff.

(i) The Nevada Association of Counties shall appoint one member from among the membership of a board of county commissioners of a county other than Clark County or Washoe County, or from among the membership of the staff of such a board.

(j) The Nevada League of Cities and Municipalities shall appoint one member from among the membership of the governing body of a city located in a county other than Clark County or Washoe County, or from among the membership of the staff of such a governing body.

(k) The members of the interim committee appointed pursuant to paragraphs (a) to (j), inclusive, shall by majority vote appoint one additional member from among the membership of the board of trustees of a general improvement district that receives any allocation of money from the Local Government Tax Distribution Account, or from among the membership of the staff of such a board of trustees.

None of the members appointed pursuant to paragraphs (i), (j) and (k) may be from the same county as any other of those members.

2. The member of the interim committee appointed by the Legislative Commission shall serve as the chairman of the interim committee. The members of the interim committee shall elect a vice chairman by majority vote.

3. A vacancy on the interim committee must be filled in the same manner as the original appointment.

4. The members of the interim committee serve without any additional compensation, except that, while engaged in the business of the interim committee:

(a) Each member who is a Legislator is 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, which must be paid from the Legislative Fund; and

(b) Each member who is not a Legislator is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, which must be paid by the board of county commissioners, city council, governing body or board of trustees of which he is a member or by whom he is employed.

5. Each member of the interim committee who is an officer or employee of 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 interim committee and perform any work necessary to carry out the duties of the interim committee in the most timely manner practicable. A political subdivision of this State shall not require an officer or employee who is a member of the interim committee to make up the time that he is absent from work to carry out his duties as a member of the interim committee or to use annual vacation or compensatory time for the absence.

6. The members of the interim committee shall meet at least quarterly and at the times and places specified by a call of the chairman.

7. Six members of the interim committee constitute a quorum, and the affirmative vote of a majority of the members present is sufficient for any action of the interim committee.

8. The interim committee shall:

(a) Review the distribution among local governmental entities of the taxes currently imposed in this State;

(b) Examine whether the current system of distribution results in an appropriate allocation of those taxes among local governmental entities and, if not, consider possible solutions to achieve a more appropriate distribution of those taxes; and

(c) Report the results of the study to the Assembly Standing Committee on Taxation and Senate Standing Committee on Taxation for the 76th Session of the Legislature.

9. The Director of the Legislative Counsel Bureau shall provide such staff and other support as is necessary for the interim committee to perform its duties. The Executive Director of the Department of Taxation shall provide the services of an employee of the Department to provide such expert assistance as the interim committee may require.

~~Sec. 2.~~ Sec. 8. 1. This act becomes effective on July 1, 2009.

2. Section 7 of this act expires by limitation on March 31, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

Amendment No. 416 to Senate Bill No. 294 will present a new opportunity for a Consolidated Tax Committee to meet to determine how we will divide that tax. Page 10 of the amendment states who will be members of this study that will take place during the interim. The members will submit their report to the Legislature in 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 303.

Bill read second time.

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

Amendment No. 227.

"SUMMARY—Enacts the Interstate Compact on Educational Opportunity for Military Children. (BDR 34-186)"

"AN ACT relating to education; enacting the Interstate Compact on Educational Opportunity for Military Children; revising provisions relating to the enrollment and education of certain children of military families in public schools; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Interstate Compact on Educational Opportunity for Military Children is an interstate compact which addresses issues relating to the education of certain children of military families in states that are members of the Interstate Compact, including guidelines for the enrollment, placement, graduation and extracurricular activities of those children. The Interstate Compact also requires states that have enacted the Compact to establish a State Council to carry out the provisions of the Interstate Compact and to appoint certain other persons to ensure the proper administration of the Interstate Compact in the state. Section 2 of this bill enacts the Interstate Compact. Sections 3-8 of this bill contain the provisions necessary to carry out the Interstate Compact, including the creation of the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children, the appointment of a liaison to assist military families transferring into this State and the appointment of a Commissioner to oversee the administration of the Interstate Compact. Sections ~~9-17~~ *10 and 11-17* of this bill amend existing provisions relating to ~~eligibility and participation in interscholastic activities and events and provisions relating to~~ the placement, testing, graduation, enrollment and immunization of pupils to ensure that such provisions are consistent with the provisions of the Interstate Compact. (NRS ~~386.430,~~ 388.470, 389.015, 389.035, 389.805, 392.033, 392.040, 392.122, 392.435)

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 8, inclusive, of this act.

Sec. 2. *The Interstate Compact on Educational Opportunity for Military Children, set forth in this section, is hereby enacted into law and entered into with all other jurisdictions substantially as follows:*

*ARTICLE I*

*PURPOSE*

*It is the purpose of this Compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:*

*A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from the previous school district or variations in entrance and age requirements.*

*B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance*

*requirements, scheduling, sequencing, grading, course content or assessment.*

*C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic and social activities.*

*D. Facilitating the on-time graduation of children of military families.*

*E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this Compact.*

*F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this Compact.*

*G. Promoting coordination between this Compact and other compacts affecting children of military families.*

*H. Promoting flexibility and cooperation between the educational system, parents and students to achieve educational success for the student.*

## ARTICLE II

### DEFINITIONS

*As used in this chapter, unless the context otherwise requires, the words and terms defined in this Article have the meanings ascribed to them in this Article:*

*A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.*

*B. "Child of a military family" means a school-aged child enrolled in kindergarten or grades 1 through 12, inclusive, in the household of a person on active duty.*

*C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this Compact.*

*D. "Deployment" means the period 1 month before the departure of a person on active duty from his home station on military orders through 6 months after return to his home station.*

*E. "Educational records" means the official records, files and data directly relating to a student which are maintained by a school or local education agency, including, without limitation, records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.*

*F. "Extracurricular activities" means a voluntary activity sponsored by a school or local education agency or an organization sanctioned by a local education agency, including, without limitation, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities.*

G. *"Interstate Commission" means the Interstate Commission on Educational Opportunity for Military Children created by Article IX of this Compact.*

H. *"Local education agency" means an administrative agency legally constituted by the state to provide control of and direction for public educational institutions for kindergarten and grades 1 through 12, inclusive.*

I. *"Member state" means a state that has enacted this Compact.*

J. *"Military installation" means a base, camp, post, station, yard, center or homeport facility for any ship or other activity under the jurisdiction of the United States Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands or any other territory of the United States. The term does not include a facility used primarily for civil works or river, harbor or flood control projects.*

K. *"Nonmember state" means a state that has not enacted this Compact.*

L. *"Receiving state" means the state to which a child of a military family is sent, brought or caused to be sent or brought.*

M. *"Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this Compact that is of general applicability and implements, interprets or prescribes a policy or provision of this Compact or an organizational, procedural or practice requirement of the Interstate Commission and has the force and effect of statutory law in a member state, including the amendment, repeal or suspension of an existing rule.*

N. *"Sending state" means the state from which a child of a military family is sent, brought or caused to be sent or brought.*

O. *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.*

P. *"Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten or grades 1 through 12, inclusive.*

Q. *"Transition" means the formal and physical process of transferring from school to school or the period of time in which a student moves from one school in the sending state to another school in the receiving state.*

R. *"Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard or Commissioned Corps of the Public Health Service and the National Oceanic and Atmospheric Administration.*

S. *"Veteran" means a person who served in the uniformed service and who was discharged or released therefrom under conditions other than dishonorable.*

A. *Except as otherwise provided in sections B and C, this Compact shall apply to the children of:*

1. *Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;*

2. *Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and*

3. *Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.*

B. *The provisions of this Compact shall only apply to local education agencies.*

C. *The provisions of this Compact shall not apply to the children of:*

1. *Inactive members of the National Guard or military reserves;*

2. *Retired members of the uniformed services, except as otherwise provided in section A;*

3. *Veterans of the uniformed services, except as otherwise provided in section A; and*

4. *Other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.*

#### ARTICLE IV

##### EDUCATIONAL RECORDS AND ENROLLMENT

A. *Unofficial or "hand-carried" educational records – If official educational records cannot be released to the parent or legal guardian for the purpose of transfer, the custodian of the educational records in the sending state shall prepare and furnish to the parent or legal guardian a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial educational records pending validation by the official records.*

B. *Official educational records – At the time that a school initially enrolls and determines the placement of a student, the school in the receiving state shall request the official educational records of the student from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official educational records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.*

C. *Immunizations – Member states shall give 30 days after the date of enrollment, or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations,*

initial vaccinations must be obtained within 30 days, or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and grade 1 entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on his validated level from ~~an accredited school~~ the local education agency in the sending state.

#### ARTICLE V

##### PLACEMENT AND ATTENDANCE

A. Course placement – When a student transfers before or during the school year, the school in the receiving state shall initially honor placement of the student in educational courses based on the student's enrollment in the school in the sending state or educational assessments conducted at the school in the sending state, if the courses are offered in the receiving state, ~~if~~ and space is available. Course placement includes, without limitation, honors, international baccalaureate, advanced placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. Nothing in this section precludes the school in the receiving state from performing subsequent evaluations to ensure the appropriate placement and continued enrollment of the student in the appropriate courses.

B. Educational program placement – The school in the receiving state shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation and placement in like programs in the sending state. Such programs include, without limitation, gifted and talented programs and English as a second language. Nothing in this section precludes the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services – In compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., the receiving state shall initially provide comparable services to a student with a disability based on his current individualized education program. In compliance with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to

*provide the student with equal access to education. Nothing in this section precludes the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.*

*D. Placement flexibility – The administrative officials of the local education agency shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.*

*E. Absence relating to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the superintendent of the local education agency to visit with his parent or legal guardian relating to such leave or deployment.*

#### ARTICLE VI

##### ELIGIBILITY

###### A. Eligibility for enrollment

*1. A special power of attorney, for purposes of the guardianship of a child of a military family, which is executed pursuant to the applicable law of the jurisdiction in which the special power of attorney is executed is sufficient for the purposes of enrolling a student in school and for all other actions requiring participation and consent of a parent or legal guardian of the student.*

*2. A local education agency shall not charge local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.*

*3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he was enrolled while residing with the custodial parent.*

*B. Eligibility for participation in extracurricular activities – State and local education agencies shall facilitate the opportunity for transitioning children of military families to be included in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.*

#### ARTICLE VII

##### GRADUATION

*To facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:*

*A. Waiver requirements – The administrative officials of the local education agency shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial of a waiver. If a waiver is not granted to a student who qualifies to graduate from*

*the sending school, the local education agency shall provide an alternative means of acquiring required course work so that the student may graduate on time.*

*B. Exit exams – States shall accept:*

*1. Exit or end-of-course exams required for graduation from the sending state;*

*2. National norm-referenced achievement tests; or*

*3. Alternative testing,*

*↪ in lieu of tests required for graduation in the receiving state. If the alternatives set forth in this section cannot be accommodated by the receiving state for a student transferring during the student's senior year, then the provisions of section C shall apply.*

*C. Transfers during senior year – If a military student transferring immediately before beginning or during his senior year is ineligible to graduate from the local education agency of the receiving state after all alternatives have been considered pursuant to this Article, the local education agencies of the sending state and the receiving state shall ensure the receipt of a diploma from the local education agency of the sending state if the student meets the graduation requirements of the local education agency of the sending state. If the sending state or the receiving state is not a member of this Compact, the member state shall use its best efforts to facilitate the on-time graduation of the student in accordance with this Article.*

#### *ARTICLE VIII*

##### *STATE COORDINATION*

*A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this Compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least the state superintendent of public education, a superintendent of a school district with a high concentration of children of military families, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the member state deems appropriate. A member state that does not have a school district deemed to contain a high concentration of children of military families may appoint a superintendent from another school district to represent the local education agencies of the member state on the State Council.*

*B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this Compact.*

C. A compact commissioner responsible for the administration and management of the state's participation in the Compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be *ex officio* members of the State Council, unless either is already a full voting member of the State Council.

#### ARTICLE IX

##### INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The Interstate Commission may form public policy and is a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this Compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of *ex officio*, nonvoting representatives who are members of interested organizations. Such *ex officio* members, as defined in the bylaws, may include, without limitation, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The Chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an Executive Committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the

*Executive Committee shall serve a term of 1 year. Members of the Executive Committee shall be entitled to one vote each. The Executive Committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The Executive Committee shall oversee the day-to-day activities of the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as deemed necessary. The United States Department of Defense shall serve as an ex officio, nonvoting member of the executive committee.*

*F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.*

*G. Give public notice of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the Compact. The Interstate Commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:*

*1. Relate solely to the Interstate Commission's internal personnel practices and procedures;*

*2. Disclose matters specifically exempted from disclosure by federal and state statute;*

*3. Disclose trade secrets or commercial or financial information which is privileged or confidential;*

*4. Involve accusing a person of a crime, or formally censuring a person;*

*5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;*

*6. Disclose investigative records compiled for law enforcement purposes; or*

*7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.*

*H. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the Interstate Commission.*

I. Collect standardized data concerning the educational transition of the children of military families under this Compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. The methods of data collection, exchange and reporting must, insofar as is reasonably possible, conform to current technology and coordinate information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Create a process that permits military officials, education officials and parents to inform the Interstate Commission of alleged violations of the Compact or its rules or when issues subject to the jurisdiction of the Compact or its rules are not addressed by the member state or a local education agency within a member state. Nothing in this section creates a private right of action against the Interstate Commission or any member state.

#### ARTICLE X

##### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the power to:

- A. Provide for dispute resolution among the member states.
- B. Promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this Compact. The rules must have the force and effect of statutory law and be binding in the member states to the extent and in the manner provided in this Compact.
- C. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules and actions.
- D. Enforce compliance with the provisions of the Compact, the rules promulgated by the Interstate Commission and the bylaws, using all necessary and proper means, including, without limitation, the use of the judicial process.
- E. Establish and maintain offices which shall be located within one or more of the member states.
- F. Purchase and maintain insurance and bonds.
- G. Borrow, accept, hire or contract for services of personnel.
- H. Establish and appoint committees, including, without limitation, an Executive Committee as required by section E of Article IX of this Compact, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- I. Elect or appoint officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel.
- J. Accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, use and dispose of them.

*K. Lease, purchase or accept contributions or donations of, or otherwise own, hold, improve or use any property, including real, personal or mixed property.*

*L. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, including real, personal or mixed property.*

*M. Establish a budget and make expenditures.*

*N. Adopt a seal and bylaws governing the management and operation of the Interstate Commission.*

*O. Report annually to the legislatures, governors, judiciary and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports must also include any recommendations that may have been adopted by the Interstate Commission.*

*P. Coordinate education, training and public awareness regarding the Compact, its implementation and operation for officials and parents and legal guardians.*

*Q. Establish uniform standards for the reporting, collecting and exchanging of data.*

*R. Maintain corporate books and records in accordance with the bylaws.*

*S. Perform such functions as may be necessary or appropriate to achieve the purposes of this Compact.*

*T. Provide for the uniform collection and sharing of information between and among member states, schools and military families under this Compact.*

#### ARTICLE XI

##### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

*A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, without limitation:*

*1. Establishing the fiscal year of the Interstate Commission;*

*2. Establishing an Executive Committee and such other committees as may be necessary;*

*3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;*

*4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;*

*5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;*

*6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that exist upon the termination of the Compact after the payment and reserving of all of its debts and obligations; and*

7. *Providing "start up" rules for initial administration of the Compact.*

B. *The Interstate Commission shall, by a majority of the members, elect annually from among its members a Chairperson, a Vice Chairperson and a Treasurer, each of whom has the authority and duties as specified in the bylaws. The Chairperson or, in the Chairperson's absence or disability, the Vice Chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission. However, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.*

C. *Executive Committee, Officers and Personnel*

1. *The Executive Committee shall have such authority and duties as set forth in the bylaws, including, without limitation:*

a. *Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;*

b. *Overseeing an organizational structure within, and appropriate procedures for, the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and*

c. *Planning, implementing and coordinating communications and activities with other state, federal and local government organizations to advance the goals of the Interstate Commission.*

2. *The Executive Committee may, subject to the approval of the Interstate Commission, appoint or retain an Executive Director upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The Executive Director shall serve as Secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The Executive Director shall hire and supervise such other persons as may be authorized by the Interstate Commission.*

D. *The Interstate Commission's Executive Director and employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error or omission that occurred, or that the Executive Director or employee had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties or responsibilities. The Executive Director or an employee shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct on the part of the person.*

1. *The liability of the Interstate Commission's Executive Director, an employee or a representative acting within the scope of such person's employment or duties for acts, errors or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees and agents.*

*The Interstate Commission is considered to be an instrumentality of the member states for the purposes of any such action. Nothing in this subsection protects such person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct on the part of the person.*

2. *The Interstate Commission shall defend the Executive Director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct of the person.*

3. *To the extent not covered by the state involved, member state or the Interstate Commission, a representative or employee of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such person arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the person.*

## ARTICLE XII

### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. *Rulemaking Authority – Except as otherwise provided in this section, the Interstate Commission shall promulgate reasonable rules to effectively and efficiently achieve the purposes of this Compact. If the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, such an action by the Interstate Commission shall be deemed invalid and have no force or effect.*

B. *Rulemaking Procedure – Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act, of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.*

C. *Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule. The filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The*

*court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.*

*D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any compacting state.*

### ARTICLE XIII

#### OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

##### A. Oversight

*1. The executive, legislative and judicial branches of state government in each member state shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder must have standing as statutory law.*

*2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission.*

*3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this Compact or promulgated rules.*

##### B. Default, Technical Assistance, Suspension and Termination

*1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact, the bylaws or the rules, the Interstate Commission shall:*

*a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state may cure its default.*

*b. Provide remedial training and specific technical assistance regarding the default.*

*2. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.*

*3. Suspension or termination of membership in the Compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the*

*Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.*

4. *The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination; including obligations the performance of which extends beyond the effective date of suspension or termination.*

5. *The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.*

6. *The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.*

*C. Dispute Resolution*

1. *The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states and between member and nonmember states.*

2. *The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.*

*D. Enforcement*

1. *The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.*

2. *The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, its promulgated rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.*

3. *The remedies set forth herein must not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.*

**ARTICLE XIV**

**FINANCING OF THE INTERSTATE COMMISSION**

A. *The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.*

B. *The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total*

amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind before securing the funds adequate to meet the same and shall not pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Interstate Commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the Interstate Commission.

#### ARTICLE XV

##### MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. Upon legislative enactment of the Compact into law by not less than 10 states, the Compact becomes effective and binding as to those states that have enacted the Compact. The Compact shall become effective and binding as to any other member state upon enactment of the Compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis before adoption of the Compact by all states.

C. The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by each member state.

#### ARTICLE XVI

##### WITHDRAWAL AND DISSOLUTION

A. *Withdrawal*

1. Once effective, the Compact shall continue in force and remain binding upon each member state.

2. A member state may withdraw from the Compact by repealing the statute which enacted the Compact. Withdrawal from the Compact must not be effective less than 1 year after the effective date of repeal of the statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each member state.

3. The withdrawing state shall immediately notify the Chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days after its receipt thereof.

4. *The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extend beyond the effective date of withdrawal.*

5. *A state that has withdrawn from the Compact may be reinstated upon reenactment of the Compact by that state or a later date, as determined by the Interstate Commission.*

*B. Dissolution of Compact*

1. *The effectiveness of this Compact dissolves upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one member state.*

2. *Upon dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect. The business and affairs of the Interstate Commission must be concluded and surplus funds must be distributed in accordance with the bylaws.*

*ARTICLE XVII*

*SEVERABILITY AND CONSTRUCTION*

A. *The provisions of this Compact are severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact remain enforceable.*

B. *The provisions of this Compact must be liberally construed to effectuate its purposes.*

C. *Nothing in this Compact may be construed to prohibit the applicability of other interstate compacts to which the states are members.*

*ARTICLE XVIII*

*BINDING EFFECT OF COMPACT AND OTHER LAWS*

*A. Other Laws*

1. *Nothing herein prevents the enforcement of any other statute of a member state that is not inconsistent with this Compact.*

2. *The statutes of a member state which conflict with this Compact are superseded to the extent of the conflict.*

*B. Binding Effect of the Compact*

1. *All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.*

2. *All agreements between the Interstate Commission and the member states are binding in accordance with the terms of such agreements.*

3. *In the event a provision of this Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision is not effective to the extent of the conflict with the Constitution in that member state.*

Sec. 3. 1. *In furtherance of the provisions contained in the Interstate Compact on Educational Opportunity for Military Children, there is hereby created a State Council for the Coordination of the Interstate Compact on*

*Educational Opportunity for Military Children, consisting of the following members:*

*(a) One representative of the Nevada National Guard, appointed by the Governor.*

*(b) One representative of each military installation in this State, appointed by the commanding officer of that military installation.*

*(c) The Superintendent of Public Instruction.*

*(d) The superintendent of each school district in which a military installation is located.*

*(e) One Legislator or other person appointed by the Legislative Commission to represent the interests of the Legislature.*

*(f) One person appointed by the Governor to represent the interests of the Governor.*

*2. A member of the State Council serves a term of 2 years and until his successor is appointed. A member may be reappointed.*

*3. A member of the State Council may be removed from office by the appointing authority at any time.*

*4. A vacancy on the State Council must be filled in the same manner as the original appointment.*

*Sec. 4. 1. The State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children created pursuant to section 3 of this act shall appoint a liaison to assist military families and the State in facilitating the implementation of the Interstate Compact on Educational Opportunity for Military Children. The liaison shall carry out the duties set forth in the Interstate Compact as may be required by the State Council.*

*2. The liaison appointed pursuant to this section may be a member of the State Council appointed pursuant to section 3 of this act or any other person deemed appropriate by the State Council.*

*3. If the liaison appointed pursuant to this section is not a member of the State Council appointed pursuant to section 3 of this act, he shall serve as an ex officio nonvoting member of the State Council.*

*Sec. 5. 1. The Governor shall appoint a Commissioner to administer and manage the participation of the State in the Interstate Compact on Educational Opportunity for Military Children.*

*2. The Commissioner shall serve at the pleasure of the Governor. The Commissioner shall:*

*(a) Carry out the duties set forth in the Interstate Compact as may be required by the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children; and*

*(b) Cooperate with all departments, agencies and officers of and in the government of this State and its subdivisions in facilitating the proper administration of the Compact, any supplementary agreement thereto or agreements entered into by this State under the Interstate Compact.*

3. The Commissioner appointed pursuant to this section may be a member of the State Council or any other person deemed appropriate by the Governor.

4. If the Commissioner appointed pursuant to this section is not a member of the State Council appointed pursuant to section 3 of this act, the Commissioner shall serve as an *ex officio* nonvoting member of the State Council.

5. If the Commissioner appointed pursuant to this section is not able to attend a meeting of the Interstate Commission, the Governor may appoint another person to attend the meeting on behalf of the State.

~~Sec. 6. [The Commissioner appointed pursuant to section 5 of this act may enter into supplementary agreements with appropriate officials of other states pursuant to the Interstate Compact on Educational Opportunity for Military Children. If a supplementary agreement requires or contemplates the provision of any service by this State, the supplementary agreement has no force or effect until approved by the head of the department or agency that will be charged with rendering the service.] (Deleted by amendment.)~~

Sec. 7. 1. Money to carry out the provisions of this chapter must be provided by direct legislative appropriation from the State General Fund and must be accounted for separately in the Interstate Compact on Educational Opportunity for Military Children Account which is hereby created.

2. The money in the Account may be used by the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children created pursuant to section 3 of this act to:

- (a) Pay any assessments, obligations or fees to the Interstate Commission.
- (b) To meet necessary administrative expenses of the State Council.

Sec. 8. 1. All officers of the State are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of the Interstate Compact on Educational Opportunity for Military Children and to accomplish the purposes thereof.

2. All officers, bureaus, departments and persons of and in the State Government or administration of this State are hereby authorized and directed at convenient times and upon request of the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children to furnish the State Council with information and data possessed by them and to aid the State Council by any means lying within their legal rights.

~~Sec. 9. [NRS 386.430 is hereby amended to read as follows:~~

~~386.430 1. The Nevada Interscholastic Activities Association shall adopt rules and regulations in the manner provided for state agencies by chapter 233B of NRS as may be necessary to carry out the provisions of NRS 386.420 to 386.470, inclusive. The regulations must include provisions governing the eligibility and participation of homeschooled children in interscholastic activities and events. In addition to the regulations governing~~

~~eligibility, a homeschooled child who wishes to participate must have on file with the school district in which he resides a current notice of intent of a homeschooled child to participate in programs and activities pursuant to NRS 392.705.~~

~~2. The Nevada Interscholastic Activities Association shall adopt regulations setting forth:~~

~~(a) The standards of safety for each event, competition or other activity engaged in by a spirit squad of a school that is a member of the Nevada Interscholastic Activities Association, which must substantially comply with the spirit rules of the National Federation of State High School Associations, or its successor organization; and~~

~~(b) The qualifications required for a person to become a coach of a spirit squad.~~

~~3. If the Nevada Interscholastic Activities Association intends to adopt, repeal or amend a policy, rule or regulation concerning or affecting homeschooled children, the Association shall consult with the Northern Nevada Homeschool Advisory Council and the Southern Nevada Homeschool Advisory Council, or their successor organizations, to provide those Councils with a reasonable opportunity to submit data, opinions or arguments, orally or in writing, concerning the proposal or change. The Association shall consider all written and oral submissions respecting the proposal or change before taking final action.~~

~~4. The Nevada Interscholastic Activities Association shall adopt regulations establishing the qualifications required for a child who transfers to a school in this State from a school inside or outside this State because of a military transfer of the parent or legal guardian of the child which must be consistent with the provisions of section 2 of this act, including, without limitation, provisions for the participation of a child who transfers to a school after the beginning of a school year.~~

~~5. As used in this section, "spirit squad" means any team or other group of persons that is formed for the purpose of:~~

~~(a) Leading cheers or rallies to encourage support for a team that participates in a sport that is sanctioned by the Nevada Interscholastic Activities Association; or~~

~~(b) Participating in a competition against another team or other group of persons to determine the ability of each team or group of persons to engage in an activity specified in paragraph (a). *(Deleted by amendment.)*~~

Sec. 10. NRS 388.470 is hereby amended to read as follows:

388.470 1. Before any child is placed in a special program for pupils with disabilities or gifted and talented pupils:

(a) A consultation must be held with his parents or guardian.

(b) An examination must be conducted for the purpose of finding the extent to which the child deviates from normal growth and development patterns. The examination must be conducted in accordance with standards prescribed by the State Board.

2. A psychiatrist may be consulted in any specific case when the board of trustees of a school district deems it necessary.

3. The board of trustees of a school district or the governing body of a charter school shall not place a child or authorize the placement of a child in a program for pupils with disabilities solely because the child is a disciplinary problem in school.

4. *Pursuant to the provisions of section 2 of this act, a child with a disability who transfers to a school in this State from a school inside or outside this State because of the military transfer of the parent or legal guardian of the child must initially be ~~placed in a program that is~~ provided services that are comparable to the ~~placement of~~ services the child received at his previous school under his current individualized education program until the placement of the child is determined pursuant to this section.*

*Sec. 10.5. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:*

*1. The superintendent of a school district or his designee shall, in accordance with section 2 of this act, make reasonable efforts to accommodate a pupil who transfers to a public school in the school district from a school inside or outside this State because of the military transfer of the parent or legal guardian of the pupil.*

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

Sec. 11. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

- (a) Reading;
- (b) Mathematics; and
- (c) Science.

2. The examinations required by subsection 1 must be:

- (a) Administered before the completion of grades 4, 7, 10 and 11.
- (b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

↪ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, he may be promoted to the next higher grade, but the results of his examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the

examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. ~~¶¶~~ *Except as otherwise provided in subsection 6, if a pupil fails to pass the high school proficiency examination, he must not be graduated unless he:*

- (a) Is able, through remedial study, to pass the proficiency examination; or
- (b) Passes the subject areas of mathematics and reading tested on the proficiency examination, has at least a 2.75 grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805,

↳ but he may be given a certificate of attendance, in place of a diploma, if he has reached the age of 18 years.

6. *A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil ~~is exempt~~ may receive a waiver from the requirements of subsection 5 if ~~compliance will result in the pupil being denied a diploma from this State or from the state in which the pupil was previously enrolled in violation of~~, in accordance with the provisions of section 2 of this act ~~and~~, the school district in which the pupil is enrolled:*

*(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;*

*(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or*

*(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.*

7. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

Sec. 12. NRS 389.035 is hereby amended to read as follows:

389.035 1. Except as otherwise provided in ~~{subsection 2,}~~ ~~subsections 2 and 3,~~ no pupil in any public high school, the Caliente Youth Center, the Nevada Youth Training Center or any other state facility for the detention of children that is operated pursuant to title 5 of NRS may receive a certificate or diploma of graduation without having passed a course in American government and American history as required by NRS 389.020 and 389.030.

2. A pupil who is enrolled in a university school for profoundly gifted pupils who meets the requirements of NRS 392A.100 is exempt from the provisions of ~~{this section.}~~ *subsection 1.*

3. *A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil ~~is exempt~~ may receive a waiver from the requirements of subsection 1 if ~~compliance will result in the pupil being denied a certificate or diploma from this State or from the state in which the pupil was previously enrolled in violation of~~, in accordance with the provisions of section 2 of this act ~~†~~, the pupil:*

*(a) Successfully completed a comparable course in the school in which he was previously enrolled; or*

*(b) Successfully completes an alternative means prescribed by the school district for acquiring the required course work.*

Sec. 13. NRS 389.805 is hereby amended to read as follows:

389.805 1. ~~{A}~~ *Except as otherwise provided in subsection 3, a pupil must receive a standard high school diploma if he:*

*(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or*

*(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than three times before beginning grade 12 and the pupil:*

(1) Passes the subject areas of mathematics and reading on the proficiency examination;

(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;

(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection ~~{3;}~~ 4; and

(4) Otherwise satisfies the requirements for graduation from high school.

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if he satisfies the requirements set forth in his individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

3. *A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil ~~is exempt~~ may receive a waiver from the requirements of paragraphs (a) and (b) of subsection 1 if ~~compliance will result in the pupil being denied a diploma from this State or from the state in which the pupil was previously enrolled in violation of~~, in accordance with the provisions of section 2 of this act ~~f-1~~, the school district in which the pupil is enrolled:*

*(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;*

*(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or*

*(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.*

4. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:

(a) An essay;

(b) A senior project; or

(c) A portfolio of work,

↪ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.

Sec. 14. ~~[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, including, without limitation, English, mathematics, science and social studies. The regulations [may]—~~

~~(a) May include the credits to be earned in each course.~~

~~(b) Must provide an exception to the provisions of this section for a pupil who transfers from a school outside this State because of a military transfer of the parent or legal guardian of the child if compliance will result in the pupil being denied, in violation of the provisions of section 2 of this act, enrollment in high school if he would have otherwise been enrolled in high school had he remained a resident of the state in which he was previously enrolled.~~

~~2.—Except as otherwise provided in subsection 4 [.] or by regulation adopted pursuant to paragraph (b) of subsection 1, 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. The board of trustees of the school district in which the pupil is enrolled may 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. The policy must include the evaluation of the course of study or credits for a pupil who transfers because of a military transfer of the parent or legal guardian of the pupil in accordance with section 2 of this act.~~

~~4.—The board of trustees of each school district shall adopt a policy that allows a pupil who has not completed the courses of study or credits required for promotion to high school to be placed on academic probation and to enroll in high school. A pupil who is on academic probation pursuant to this subsection shall complete appropriate remediation in the subject areas that he failed to pass. The policy must include the criteria for eligibility of a pupil to be placed on academic probation. A parent or guardian may elect not to place his child on academic probation but to remain in grade 8.~~

~~5.—A homeschooled child who enrolls in a public high school shall, upon initial enrollment:~~

~~(a) Provide documentation sufficient to prove that the child has successfully completed the courses of study required for promotion to high school through an accredited program of homeschool study recognized by the board of trustees of the school district;~~

~~(b) Demonstrate proficiency in the courses of study required for promotion to high school through an examination prescribed by the board of trustees of the school district; or~~

~~(c) Provide other proof satisfactory to the board of trustees of the school district demonstrating competency in the courses of study required for promotion to high school. (Deleted by amendment.)~~

Sec. 15. NRS 392.040 is hereby amended to read as follows:

392.040 1. Except as otherwise provided by law, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of any child between the ages of 7 and 18 years shall send the child to

a public school during all the time the public school is in session in the school district in which the child resides unless the child has graduated from high school.

2. A child who is 5 years of age on or before September 30 of a school year may be admitted to kindergarten at the beginning of that school year, and his enrollment must be counted for purposes of apportionment. If a child is not 5 years of age on or before September 30 of a school year, the child must not be admitted to kindergarten.

3. Except as otherwise provided in subsection 4, a child who is 6 years of age on or before September 30 of a school year must:

(a) If he has not completed kindergarten, be admitted to kindergarten at the beginning of that school year; or

(b) If he has completed kindergarten, be admitted to the first grade at the beginning of that school year,

↪ and his enrollment must be counted for purposes of apportionment. If a child is not 6 years of age on or before September 30 of a school year, the child must not be admitted to the first grade until the beginning of the school year following his sixth birthday.

4. The parents, custodial parent, guardian or other person within the State of Nevada having control or charge of a child who is 6 years of age on or before September 30 of a school year may elect for the child not to attend kindergarten or the first grade during that year. The parents, custodial parent, guardian or other person who makes such an election shall file with the board of trustees of the appropriate school district a waiver in a form prescribed by the board.

5. Whenever a child who is 6 years of age is enrolled in a public school, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of the child shall send him to the public school during all the time the school is in session. If the board of trustees of a school district has adopted a policy prescribing a minimum number of days of attendance for pupils enrolled in kindergarten or first grade pursuant to NRS 392.122, the school district shall provide to each parent and legal guardian of a pupil who elects to enroll his child in kindergarten or first grade a written document containing a copy of that policy and a copy of the policy of the school district concerning the withdrawal of pupils from kindergarten or first grade. Before the child's first day of attendance at a school, the parent or legal guardian shall sign a statement on a form provided by the school district acknowledging that he has read and understands the policy concerning attendance and the policy concerning withdrawal of pupils from kindergarten or first grade. The parent or legal guardian shall comply with the applicable requirements for attendance. This requirement for attendance does not apply to any child under the age of 7 years who has not yet been enrolled or has been formally withdrawn from enrollment in public school.

6. A child who is 7 years of age on or before September 30 of a school year must:

(a) If he has completed kindergarten and the first grade, be admitted to the second grade.

(b) If he has completed kindergarten, be admitted to the first grade.

(c) If the parents, custodial parent, guardian or other person in the State of Nevada having control or charge of the child waived the child's attendance from kindergarten pursuant to subsection 4, undergo an assessment by the district pursuant to subsection 7 to determine whether the child is prepared developmentally to be admitted to the first grade. If the district determines that the child is prepared developmentally, he must be admitted to the first grade. If the district determines that the child is not so prepared, he must be admitted to kindergarten.

↪ The enrollment of any child pursuant to this subsection must be counted for apportionment purposes.

7. Each school district shall prepare and administer before the beginning of each school year a developmental screening test to a child:

(a) Who is 7 years of age on or before September 30 of the next school year; and

(b) Whose parents waived his attendance from kindergarten pursuant to subsection 4,

↪ to determine whether the child is prepared developmentally to be admitted to the first grade. The results of the test must be made available to the parents, custodial parent, guardian or other person within the State of Nevada having control or charge of the child.

8. ~~{A}~~ *Except as otherwise provided in subsection 9, a child who becomes a resident of this State after completing kindergarten or beginning first grade in another state in accordance with the laws of that state may be admitted to the grade he was attending or would be attending had he remained a resident of the other state regardless of his age, unless the board of trustees of the school district determines that the requirements of this section are being deliberately circumvented.*

9. *Pursuant to the provisions of section 2 of this act, a child who transfers to a school in this State from a school outside this State because of ~~the~~ the military transfer of the parent or legal guardian of the child must be admitted to ~~the~~ :*

*(a) The grade, ~~including, without limitation,~~ other than kindergarten, he was attending or would be attending had he remained a resident of the other state, regardless of his age.*

*(b) Kindergarten, if the child was enrolled in kindergarten in another state in accordance with the laws of that state, regardless of his age.*

10. As used in this section, "kindergarten" includes:

(a) A kindergarten established by the board of trustees of a school district pursuant to NRS 388.060;

(b) A kindergarten established by the governing body of a charter school; and

(c) An authorized program of instruction for kindergarten offered in a child's home pursuant to NRS 388.060.

Sec. 16. NRS 392.122 is hereby amended to read as follows:

392.122 1. The board of trustees of each school district shall prescribe a minimum number of days that a pupil who is subject to compulsory attendance and enrolled in a school in the district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade. The board of trustees of a school district may adopt a policy prescribing a minimum number of days that a pupil who is enrolled in kindergarten or first grade in the school district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade.

2. For the purposes of this section, the days on which a pupil is not in attendance because the pupil is absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS 392.130, must be credited towards the required days of attendance if the pupil has completed course-work requirements. *The teacher or principal of the school ~~shall~~ may approve the absence of a pupil for deployment activities of the parent or legal guardian of the pupil, as defined in section 2 of this act.* If the board of trustees of a school district has adopted a policy pursuant to subsection 5, the 10-day limitation on absences does not apply to absences that are excused pursuant to that policy.

3. Except as otherwise provided in subsection 5, before a pupil is denied credit or promotion to the next higher grade for failure to comply with the attendance requirements prescribed pursuant to subsection 1, the principal of the school in which the pupil is enrolled or his designee shall provide written notice of the intended denial to the parent or legal guardian of the pupil. The notice must include a statement indicating that the pupil and his parent or legal guardian may request a review of the absences of the pupil and a statement of the procedure for requesting such a review. Upon the request for a review by the pupil and his parent or legal guardian, the principal or his designee shall review the reason for each absence of the pupil upon which the intended denial of credit or promotion is based. After the review, the principal or his designee shall credit towards the required days of attendance each day of absence for which:

(a) There is evidence or a written affirmation by the parent or legal guardian of the pupil that the pupil was physically or mentally unable to attend school on the day of the absence; and

(b) The pupil has completed course-work requirements.

4. A pupil and his parent or legal guardian may appeal a decision of a principal or his designee pursuant to subsection 3 to the board of trustees of the school district in which the pupil is enrolled.

5. The board of trustees of a school district may adopt a policy to exempt pupils who are physically or mentally unable to attend school from the limitations on absences set forth in subsection 1. If a board of trustees adopts a policy pursuant to this subsection:

(a) A pupil who receives an exemption pursuant to this subsection is not exempt from the minimum number of days of attendance prescribed pursuant to subsection 1.

(b) The days on which a pupil is physically or mentally unable to attend school must be credited towards the required days of attendance if the pupil has completed course-work requirements.

(c) The procedure for review of absences set forth in subsection 3 does not apply to days on which the pupil is absent because the pupil is physically or mentally unable to attend school.

6. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.

Sec. 17. NRS 392.435 is hereby amended to read as follows:

392.435 1. Unless excused because of religious belief or medical condition ~~and~~ *and except as otherwise provided in subsection 5*, a child may not be enrolled in a public school within this State unless his parents or guardian submit to the board of trustees of the school district in which the child resides or the governing body of the charter school in which the child has been accepted for enrollment a certificate stating that the child has been immunized and has received proper boosters for that immunization or is complying with the schedules established by regulation pursuant to NRS 439.550 for the following diseases:

- (a) Diphtheria;
- (b) Tetanus;
- (c) Pertussis if the child is under 6 years of age;
- (d) Poliomyelitis;
- (e) Rubella;
- (f) Rubeola; and
- (g) Such other diseases as the local board of health or the State Board of Health may determine.

2. The certificate must show that the required vaccines and boosters were given and must bear the signature of a licensed physician or his designee or a registered nurse or his designee, attesting that the certificate accurately reflects the child's record of immunization.

3. If the requirements of subsection 1 can be met with one visit to a physician or clinic, procedures for conditional enrollment do not apply.

4. A child may enter school conditionally if the parent or guardian submits a certificate from a physician or local health officer that the child is receiving the required immunizations. If a certificate from the physician or local health officer showing that the child has been fully immunized is not submitted to the appropriate school officers within 90 school days, or its equivalent in a school district operating under an alternative schedule

authorized pursuant to NRS 388.090, after the child was conditionally admitted, the child must be excluded from school and may not be readmitted until the requirements for immunization have been met. A child who is excluded from school pursuant to this section is a neglected child for the purposes of NRS 432.0999 to 432.130, inclusive, and chapter 432B of NRS.

5. *A child who transfers to a school in this State from a school outside this State because of ~~the~~ the military transfer of the parent or legal guardian of the child must be enrolled in school in this State regardless of whether the child has been immunized. Unless a different time frame is prescribed pursuant to section 2 of this act, the parent or legal guardian shall submit a certificate from a physician or local health officer showing that the child:*

*(a) If the requirements of subsection 1 can be met with one visit to a physician or clinic, has been fully immunized within 30 school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the child was enrolled; or*

*(b) If the requirements of subsection 1 cannot be met with one visit to a physician or clinic, is receiving the required immunizations within 30 school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the child was enrolled. A certificate from the physician or local health officer showing that the child has been fully immunized must be submitted to the appropriate school officers within 120 school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the child was enrolled.*

*➤ If the parent or legal guardian fails to submit the documentation required pursuant to this subsection, the child must be excluded from school and may not be readmitted until the requirements for immunization have been met. A child who is excluded from school pursuant to this section is a neglected child for the purposes of NRS 432.0999 to 432.130, inclusive, and chapter 432B of NRS.*

6. Before December 31 of each year, each school district and the governing body of each charter school shall report to the Health Division of the Department of Health and Human Services, on a form furnished by the Division, the exact number of pupils who have completed the immunizations required by this section.

~~{6.}~~ 7. The certificate of immunization must be included in the pupil's academic or cumulative record and transferred as part of that record upon request.

Sec. 18. This act becomes effective on July 1, 2009.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Senator Nolan requested that his remarks be entered in the Journal.

Amendment No. 227 to Senate Bill No. 303 takes the fiscal note away from the bill. Additionally, it clarifies the course of placement that the receiving state is based upon space available in the course. It specifies that a student may receive a waiver from certain course work

if the student successfully completed a comparable course from the transferring school district or completes an alternate means prescribed by the Nevada school district and makes it permissive rather than mandatory for a principal of a school to approve the absence of a pupil for deployment activities of the parent or legal guardian who are enlisted in active duty.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 305.

Bill read second time.

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

Amendment No. 171.

"SUMMARY—Makes various changes concerning *dispensing a medication and providing* a prescription for the sexual partner of a person diagnosed with a sexually transmitted disease. (BDR 40-845)"

"AN ACT relating to communicable diseases; making various changes concerning *dispensing a medication and providing* a prescription for the sexual partner of a person diagnosed with a sexually transmitted disease; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill authorizes a provider of health care *or, under the direction of a local health officer, an employee of a board of health* to *dispense a medication or* issue a prescription for the treatment of the sexual partner of a person who has been diagnosed with a sexually transmitted disease without examining the partner. This bill further allows the provider of health care *or employee of a board of health* to exclude from the prescription the name or other identifying information of the partner if the prescription specifies the purpose for the prescription. *This bill also requires the State Board of Health to adopt regulations relating to dispensing a medication or providing a prescription pursuant to the provisions of this bill.*

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

Section 1. Chapter 441A of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Notwithstanding~~

*1. Except as otherwise provided in this section or a regulation adopted pursuant thereto and notwithstanding any other provision of law, a provider of health care or, under the direction of the local health officer, an employee of a board of health who diagnoses a patient with a sexually transmitted disease may dispense a medication or provide a prescription for treatment of the sexually transmitted disease for the sexual partner of the patient without examining the partner, and may exclude from the prescription the name or other identifying information about the sexual partner if the prescription specifies the purpose for the prescription.*

2. The Board shall adopt regulations for dispensing a medication and providing a prescription for treatment of a sexually transmitted disease for the sexual partner of a patient pursuant to this section, including, without limitation, regulations:

(a) For the reporting of such diseases pursuant to NRS 441A.150 and any regulation adopted pursuant to the provisions of chapter 441A of NRS relating to the reporting of communicable diseases;

(b) Prescribing the types of sexually transmitted diseases for which a medication may be dispensed or a prescription may be provided for treatment of a sexually transmitted disease for the sexual partner of a patient without examining the partner; and

(c) Prescribing the protocols for dispensing a medication and providing a prescription for treatment of the sexually transmitted disease for the sexual partner of a patient without examining the partner.

3. A person may not dispense a medication or provide a prescription for treatment of a sexually transmitted disease for the sexual partner of a patient without examining the partner if dispensing the medication or providing the prescription is in violation of an ethical requirement or standard of practice which applies to the professional practice of the person.

4. As used in this section:

(a) "Board of health" means a city, county or district board of health.

(b) "Local health officer" means a city health officer appointed pursuant to NRS 439.430, a county health officer appointed pursuant to 439.290 or a district health officer appointed pursuant to NRS 439.368 or 439.400.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Senator Parks requested that his remarks be entered in the Journal.

Amendment No. 171 to Senate Bill No. 305 authorizes an employee of a board of health to dispense medication under the direction of a local health officer and to exclude certain information from the prescription, in certain circumstances. Additionally, it requires the State Board of Health to adopt regulations relating to dispensing a medication or providing a prescription pursuant to the provisions of the bill. The amendment also prohibits providing certain prescriptions or treatments to sexual partners of a patient without examination if doing so violates ethical requirements, standards or practices that apply to the practitioner.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 331.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 415.

"SUMMARY—Provides a partial abatement of property taxes and certain sales and use taxes imposed on facilities that use solar or wind energy to generate electricity or process heat. (BDR 58-289)"

"AN ACT relating to energy; providing a partial abatement of property taxes and certain sales and use taxes imposed on facilities that use solar or

wind energy to generate electricity or process heat; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill partially abates the property taxes imposed on a facility that uses solar *or wind* energy to generate electricity or process heat by 75 percent for 25 years, and abates the local school support taxes imposed on property used in the construction or operation of such a facility by 75 percent for 10 years. These abatements will cease to be effective in 30 years.

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

Section 1. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 2. Chapter 701A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The owner of a facility for the generation of electricity or process heat from solar or wind energy is entitled to a partial abatement of the taxes imposed on that facility pursuant to chapter 361 of NRS in the annual amount of 75 percent of those taxes. The partial abatement applies for the first 25 fiscal years that begin after an application for a permit to construct the facility is filed with the governmental entity having jurisdiction to issue that permit.*

2. *A person who locates or maintains a facility for the generation of electricity or process heat from solar or wind energy in this State is entitled to a partial abatement of the taxes imposed by NRS 374.110 and 374.190 on the sale, storage, use or other consumption of property used in the construction or operation of that facility, in the amount of 75 percent of those taxes. The partial abatement applies for the period of 10 years beginning on the date an application for a permit to construct the facility is filed with the governmental entity having jurisdiction to issue that permit.*

3. *The Department of Taxation shall adopt such regulations as it determines to be necessary for the administration of this section.*

4. *As used in this section, "facility for the generation of electricity or process heat from solar or wind energy" means a facility that:*

- (a) Uses solar or wind energy as its primary source of energy; and*
- (b) Generates:*

(1) *Electricity that is sold to another person for resale; or*

(2) *Process heat.*

↪ *The term includes all the machinery and equipment that is used in the facility to collect and store the solar or wind energy and to convert ~~the solar~~ that energy into electricity or process heat.*

Sec. 3. Notwithstanding the provisions of section 2 of this act, a person is not entitled to any partial abatement of taxes pursuant to that section after June 30, 2039.

Sec. 4. This act becomes effective on July 1, 2009, and expires by limitation on June 30, 2039.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

Senator Coffin requested that his remarks be entered in the Journal.

Amendment No. 415 to Senate Bill No. 331 adds wind to the categories of energy generation that might be created if a plant is constructed. The fiscal impact will require the bill to be heard in Finance. The Committee on Taxation received this bill rather late and only had time to hear it briefly. The committee felt the topic to be interesting and worthy of consideration, but did not have enough time for us to pass out of committee. This bill is to be included on a list of rereferrals to the Committee on Finance after amending.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 338.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 312.

"SUMMARY—Authorizes a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises under certain circumstances. (BDR 10-1152)"

"AN ACT relating to property; authorizing a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability under certain circumstances; authorizing the landlord to charge and collect certain reasonable and actual costs before releasing the abandoned personal property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability if the landlord ~~[provides for the safe storage of the abandoned personal property for 30 days after the termination of the tenancy and the landlord is not negligent or does not commit any wrongful acts in storing the property.]~~ takes reasonable steps to notify any holder of a lien or security interest of the existence of the abandoned property and notifies the tenant who left the

*property on the premises of his intention to dispose of the property.* Section 2 of this bill defines "abandoned personal property" as any personal property which is left unattended on the commercial premises after the termination of the tenancy, unless the owner of the personal property expresses his intent in writing to return for the personal property. ~~After the expiration of the 30-day period for safely storing the abandoned personal property, section 1 authorizes the landlord to dispose of the abandoned personal property and recover his reasonable costs if he provides written notice to the tenant expressing the intent of the landlord to dispose of the property.~~ If the abandoned personal property is a vehicle, section 1 requires the vehicle to be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles. Section 1 also authorizes the landlord to charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, of the abandoned personal property before releasing the abandoned personal property to the tenant or his authorized representative. If the tenant disputes the costs claimed by the landlord, section 1 authorizes the dispute to be resolved using the procedure specified in NRS 40.253, as amended by section 3 of this bill.

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

Section 1. Chapter 118 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose ~~in the following manner~~ of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:*

*(a) ~~The landlord shall provide for the safe storage of the abandoned personal property for 30 days after the termination of the tenancy. The landlord is liable to the tenant only for the landlord's negligent or wrongful acts in storing the property.~~*

*~~(b) After the expiration of the 30-day period, the~~ landlord may dispose of the abandoned personal property and recover his reasonable costs out of the abandoned personal property or the value thereof if ~~the~~ the conditions set forth in subparagraphs (1) and (2) are satisfied:*

*(1) The landlord has taken reasonable steps to:*

*(I) Determine whether the abandoned personal property is subject to a lien or security interest; and*

*(II) If the abandoned personal property is subject to a lien or security interest, notify the holder of the lien or the security interest that the abandoned personal property has been left on the premises.*

*(2) The landlord has notified the tenant in writing of his intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was given to the tenant. The notice must be mailed to the tenant at*

the tenant's present address, and if that address is unknown, then at the tenant's last known address.

~~##(e)~~ (b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a). ~~for (b).~~

~~##(d)~~ (c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph ~~##(e)~~ (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 2. NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to 118.205, inclusive, and section 1 of this act, unless the context otherwise requires:

1. "Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy, unless the owner of the personal property has expressed an intent in writing to return for the personal property.

2. "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~{2-}~~ 3. "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~{3-}~~ 4. "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.

Sec. 3. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

↪ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable

for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or *section 1 of this act* for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant, whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days

after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 ~~[ ]~~ or section 1 of this act and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Senator Wiener moved the adoption of the amendment.

Conflict of interest declared by Senator Care.

Remarks by Senator Care.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 312 to Senate Bill No. 338 deletes a requirement that the landlord must provide for the safe storage of the abandoned property for 30 days. The amendment also requires the landlord to make a reasonable effort to notify anyone who holds a lien or security interest on the property of his intent to dispose of the items.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 343.

Bill read second time.

The following amendment was proposed by the Committee on Health and Education.

Amendment No. 451.

"SUMMARY—~~[Requires the Division of Welfare and Supportive Services of the Department of Health and Human Services to expedite]~~ Makes various changes concerning the application for and provision of [a person for] certain treatment or services [if the] to a person [is] (BDR involved in the child welfare system. 38-477)"

"AN ACT relating to public welfare; requiring the Director of the Department of Health and Human Services to provide priority access to treatment and services to certain parents who are referred for such treatment or services by an agency which provides child welfare services; requiring the Division of Welfare and Supportive Services of the Department ~~of Health~~

and Human Services] to expedite the application of a person for treatment or services if the person is involved in the child welfare system; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ Section 2 of this bill requires the Director of the Department of Health and Human Services to include in each state plan, to the extent possible, priority for a parent who is referred by an agency which provides child welfare services to certain treatment and services that may help preserve or reunify the family. Section 3 of this bill provides that the application of a person who is referred for treatment or services by an agency which provides child welfare services or a court in a case involving a report of child abuse or neglect must be expedited so that the person can receive the treatment or services in a timely manner.

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

Section 1. The Legislature hereby finds and declares that:

The 1. preservation of healthy, unified families in this State is of utmost importance.

Children 2. removed from their homes are at risk of suffering severe emotional distress.

To assist 3. at-risk families to remain unified, it is critical that those families receive the treatment and services recommended or required by an agency which provides child welfare services or a court in a timely manner, including without limitation, treatment and services to address mental health, drug or alcohol abuse and after-care and outreach programs.

At-risk 4. families must be given priority in receiving necessary treatment and services so that the families can be preserved and strengthened.

Sec.2 . Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director shall, to the extent authorized by federal law, 1. include in any state plan adopted pursuant to NRS 422.271 priority for a parent who is referred by an agency which provides child welfare services and who is qualified for public assistance to receive treatment for mental health issues, treatment for substance abuse and any other treatment or services that may assist with preserving or reunifying the family.

As used in this section, 2. "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

~~2.]~~ ~~[See:~~ Sec.3 . Chapter 422A of NRS is hereby amended by adding thereto a new section to read as follows:

If a person who is referred for 1. treatment for mental health issues, treatment for substance abuse or any other treatment or service by an agency which provides child welfare services or by a court in a case involving a report of child abuse or neglect, the Division shall expedite the application of the person for such treatment or services to ensure that the person receives the treatment or services in a timely manner.

*As used in this section, 2. "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.*

~~3.1~~ ~~Sec.~~ *Sec.4* .This act becomes effective on July 1, 2009.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Amendment No. 451 revises provisions in Senate Bill No. 343. The amendment requires the Director of the Department of Health and Human Services to include in each state plan, to the extent possible, priority for a parent who is referred by an agency which provides child welfare services to certain treatment and services that may help to preserve or reunify the family.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 182.

Bill read second time and ordered to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bills Nos. 303, 331 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Care moved that Senate Bill No. 372 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Care moved that Senate Bill No. 294 be rereferred to the Committee on Legislative Operations and Elections.

Motion carried.

Senator Care moved that the motion whereby Assembly Joint Resolution No. 7 was referred to the Committee on Judiciary be rescinded.

Motion carried.

Senator Care moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senator Schneider moved that Senate Bill No. 312 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Senator Schneider.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 79.

Bill read third time.

Roll call on Senate Bill No. 79:

YEAS—21.

NAYS—None.

Senate Bill No. 79 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 82.

Bill read third time.

Roll call on Senate Bill No. 82:

YEAS—20.

NAYS—Parks.

Senate Bill No. 82 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 110.

Bill read third time.

Roll call on Senate Bill No. 110:

YEAS—20.

NAYS—Care.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 185.

Bill read third time.

Roll call on Senate Bill No. 185:

YEAS—18.

NAYS—Amodei, McGinness, Washington—3.

Senate Bill No. 185 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 206.

Bill read third time.

Roll call on Senate Bill No. 206:

YEAS—15.

NAYS—Care, Carlton, Coffin, Horsford, Mathews, Wiener—6.

Senate Bill No. 206 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 263.

Bill read third time.

Roll call on Senate Bill No. 263:

YEAS—21.

NAYS—None.

Senate Bill No. 263 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 266.

Bill read third time.

Roll call on Senate Bill No. 266:

YEAS—21.

NAYS—None.

Senate Bill No. 266 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 273.

Bill read third time.

Roll call on Senate Bill No. 273:

YEAS—21.

NAYS—None.

Senate Bill No. 273 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 276.

Bill read third time.

Roll call on Senate Bill No. 276:

YEAS—21.

NAYS—None.

Senate Bill No. 276 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 280.

Bill read third time.

Roll call on Senate Bill No. 280:

YEAS—21.

NAYS—None.

Senate Bill No. 280 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 300.

Bill read third time.

Roll call on Senate Bill No. 300:

YEAS—21.

NAYS—None.

Senate Bill No. 300 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 325.

Bill read third time.

Roll call on Senate Bill No. 325:

YEAS—21.

NAYS—None.

Senate Bill No. 325 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 349.

Bill read third time.

Conflict of interest declared by Senator Hardy.

Senator Lee disclosed that he is a licensed contractor.

Roll call on Senate Bill No. 349:

YEAS—19.

NAYS—Carlton.

NOT VOTING—Hardy.

Senate Bill No. 349 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 360.

Bill read third time.

Remarks by Senator Schneider.

Senator Schneider requested that his remarks be entered in the Journal.

Senate Bill No. 360 regards title-salvage vehicles. Some of you have been approached about an amendment, but we decided to move this bill forward. If the parties want to work on it in the other House, they may.

Roll call on Senate Bill No. 360:

YEAS—21.

NAYS—None.

Senate Bill No. 360 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 362.

Bill read third time.

Roll call on Senate Bill No. 362:

YEAS—21.

NAYS—None.

Senate Bill No. 362 having received a constitutional majority,  
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 3.

Resolution read third time.

Roll call on Senate Joint Resolution No. 3:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 3 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

Assembly Bill No. 136.

Bill read third time.

Roll call on Assembly Bill No. 136:

YEAS—21.

NAYS—None.

Assembly Bill No. 136 having received a constitutional majority,  
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 137.

Bill read third time.

Roll call on Assembly Bill No. 137:

YEAS—21.

NAYS—None.

Assembly Bill No. 137 having received a constitutional majority,  
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 250.

Bill read third time.

Roll call on Assembly Bill No. 250:

YEAS—21.

NAYS—None.

Assembly Bill No. 250 having received a constitutional majority,  
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

#### REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Judiciary, to which were referred Senate Bills Nos. 183, 261, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

## MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 212 be taken from the Second Reading File and placed on the Secretary's desk.

Remarks by Senator Care.

Motion carried.

## SECOND READING AND AMENDMENT

Senate Bill No. 71.

Bill read second time.

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

Amendment No. 301.

"SUMMARY—Revises various provisions relating to veterans. (BDR 37-325)"

"AN ACT relating to veterans; ~~providing a definition of "veteran" for general application to Nevada Revised Statutes;~~ revising certain obsolete and inaccurate terms; expanding the eligibility of certain veterans for certain tax exemptions and governmental programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law provides various tax exemptions and other benefits for veterans but describes the persons eligible for the tax exemptions and benefits in various ways.~~ Under existing law governing the Public Employees' Retirement System, only those veterans who served on active military duty during Operation Desert Storm, Operation Enduring Freedom or Operation Iraqi Freedom are eligible to purchase additional retirement service credit for their active military duty. (NRS 286.300, 286.367) Sections 18 and 20 of this bill expand that benefit to apply to members of the System with 5 years of creditable service in the System who were honorably discharged or released from active duty. Similarly, under existing law, only those veterans who served in the Persian Gulf Crisis are eligible to receive free retirement service credit for their military service. (NRS 286.479) ~~Assistance~~ Section 21 of this bill expands that benefit to any veteran with 5 years of creditable service in the System who was honorably discharged or released from active duty.

Under existing law, assistance to finance housing is provided through the Housing Division of the Department of Business and Industry to low-income eligible families based on the consideration of various factors, including service by those veterans who served on active duty in the Armed Forces of the United States only during specified periods. (NRS 319.060) ~~The~~ Section 31 of this bill expands the application of that provision to veterans who served on active duty during a period of war as defined by federal law. (38 U.S.C. § 101) This includes the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam

era, the Persian Gulf War and any future declaration of war by the United States Congress.

Similarly, under existing law, the property of only those veterans who served on active duty in the Armed Forces of the United States during specified periods is exempt from property taxation to the extent of \$2,000 assessed valuation. (NRS 361.090) A similar exemption from the governmental services tax imposed on vehicles is provided for such veterans to the extent of \$2,000 determined valuation. (NRS 371.103) Sections 33 and 41 of this bill, respectively, expand those exemptions to apply to veterans who served on active duty during such a period of war defined by federal law.

~~¶ This bill removes such disparate treatment of veterans by providing definitions of "veteran" and "Armed Forces of the United States" that have uniform applicability throughout Nevada Revised Statutes. Section 6 of this bill defines the term "Armed Forces of the United States" for general application to Nevada Revised Statutes to mean the United States Army, Navy, Marine Corps, Air Force or Coast Guard. The term includes the reserve components thereof while on active duty. Section 7 of this bill defines the term "veteran" for general application to Nevada Revised Statutes to mean a bona fide resident of this State who served on active duty in the Armed Forces of the United States and was discharged or released from the Armed Forces of the United States or the Nevada National Guard under conditions other than dishonorable.~~

~~Sections 1, 3, 21, 32-34, 41, 42, 50-52, 58, 62, 78 and 79 of this bill amend inaccurate references to "honorably discharged" or "honorable discharge" by substituting the phrase "discharged or released under conditions other than dishonorable" to reflect the various types of discharges or releases now issued by the Armed Forces of the United States.~~

~~Sections 28, 34, 42, 55 and 64 of this bill define a "service-connected" death or disability for the purpose of determining eligibility for certain governmental programs.~~

~~Sections 34 and 42 of this bill define the term "surviving spouse" for the purpose of determining eligibility for certain property tax exemptions.]~~

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

Section 1. ~~[NRS 417.030 is hereby amended to read as follows:~~

~~417.030 1. The Executive Director and the Deputy Executive Director must be appointed by the Governor.~~

~~2. Any person to be eligible for appointment as the Executive Director or the Deputy Executive Director must:~~

~~(a) Be an actual and bona fide resident of the State of Nevada;~~

~~(b) [Possess an honorable discharge from some] Have been discharged or released from a branch of the [military and naval service] Armed Forces of the United States [.] under conditions other than dishonorable; and~~

~~(e) Have at least 4 years of experience in management or administration.]~~  
~~(Deleted by amendment.)~~

Sec. 2. ~~[NRS 417.090 is hereby amended to read as follows:~~

~~417.090 The Executive Director and the Deputy Executive Director shall:~~

~~1. Assist veterans [,] and those presently serving in the [military and naval forces] Armed Forces of the United States who are residents of the State of Nevada, and their wives, widows, widowers, husbands, children, dependents, administrators, executors and personal representatives, in preparing, submitting and presenting any claim against the United States, or any state, for adjusted compensation, hospitalization, insurance, pension, disability compensation, vocational training, education or rehabilitation and assist them in obtaining any aid or benefit to which they may, from time to time, be entitled under the laws of the United States or of any of the states.~~

~~2. Aid, assist, encourage and cooperate with every nationally recognized service organization insofar as the activities of [such] those organizations are for the benefit of veterans [and servicemen and women.]~~

~~3. Give aid, assistance and counsel to each [and every] problem, question and situation, individual as well as collective, affecting any veteran or [serviceman or woman, or their] his dependents [,] or any group of veterans [or servicemen and women, when in their opinion such] if, in the opinion of the Executive Director and the Deputy Executive Director, the aid, assistance or counsel comes within the scope of this chapter.~~

~~4. Coordinate activities of veterans' organizations.~~

~~5. Serve as a clearinghouse and disseminate information relating to veterans' benefits.~~

~~6. Conduct any studies which will assist veterans to obtain compensation, hospitalization, insurance, pension, disability compensation, vocational training, education, rehabilitation or any other benefit to which veterans may be entitled under the laws of the United States or of any state.~~

~~7. Aid, assist and cooperate with the office of coordinator of services for veterans created in a county pursuant to NRS 244.40].~~

~~8. Pay to each county that creates the office of coordinator of services for veterans, from state money available to him, a portion of the cost of operating the office in an amount determined by the Executive Director.]~~

~~(Deleted by amendment.)~~

Sec. 3. ~~[NRS 417.150 is hereby amended to read as follows:~~

~~417.150 1. The Nevada Veterans' Services Commission, consisting of nine members, is hereby created:~~

~~2. The Governor shall appoint:~~

~~(a) Three members who are representatives of nationally recognized veterans' organizations and who [possess honorable discharges from some] were discharged or released from a branch of the [military and naval service of] Armed Forces of the United States [,] under conditions other than dishonorable.~~

~~(b) Two members who are representatives of the general public.~~

~~3. The Chairman of the Advisory Committee for a Veterans' Cemetery in Northern Nevada and the Chairman of the Advisory Committee for a Veterans' Cemetery in Southern Nevada shall each appoint one member from their respective committees to serve as a member of the Commission. Each member so appointed must be a representative of a nationally recognized veterans' organization [and possess an honorable discharge from some] who was discharged or released from a branch of the [military and naval service] Armed Forces of the United States [.] under conditions other than dishonorable.~~

~~4. The Majority Leader of the Senate shall appoint one member of the Senate to serve as a member of the Commission.~~

~~5. The Speaker of the Assembly shall appoint one member of the Assembly to serve as a member of the Commission.~~

~~6. The Governor may remove a member of the Commission at any time for failure to perform his duties, malfeasance or other good cause.~~

~~7. The term of office of each member is 2 years.~~

~~8. If a vacancy occurs in the membership of those members appointed pursuant to paragraph (a) of subsection 2, the Governor shall fill the vacancy from among the names of qualified nominees provided to him in writing by the Executive Director. (Deleted by amendment.)~~

Sec. 4. ~~[NRS 419.020 is hereby amended to read as follows:~~

~~419.020 1. The county recorders of the counties of this State shall procure books containing suitable blanks in which to record certificates of [honorable] discharge or release from the [military and naval service] Armed Forces of the United States.~~

~~2. The county recorders shall record therein all such certificates as may be presented to them for record, free of any charge therefor, and shall make the customary certificate of such record thereon. (Deleted by amendment.)~~

Sec. 5. ~~[The preliminary chapter of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.] (Deleted by amendment.)~~

Sec. 6. ~~["Armed Forces of the United States" means the United States Army, Navy, Marine Corps, Air Force or Coast Guard. The term includes the reserve components thereof while on active duty.] (Deleted by amendment.)~~

Sec. 7. ~~[Except as otherwise expressly provided in a particular statute or required by the context, "veteran" means an actual bona fide resident of this State who:~~

~~1. Served on active duty in the Armed Forces of the United States; and~~

~~2. Was discharged or released from the Armed Forces of the United States or the Nevada National Guard under conditions other than dishonorable.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 159.215 is hereby amended to read as follows:~~

~~159.215 1. A member of the Armed Forces of the United States [, a reserve component thereof] or the Nevada National Guard may, by written~~

~~instrument and without the approval of a court, appoint any competent adult residing in this State as the guardian of the person of a minor child who is a dependent of that member. The instrument must be:~~

- ~~(a) Executed by both parents if living, not divorced and having legal custody of the child, otherwise by the parent having legal custody; and~~
- ~~(b) Acknowledged in the same manner as a deed.~~

~~→ If both parents do not execute the instrument, the executing parent shall send by certified mail, return receipt requested, to the other parent at his last known address, a copy of the instrument and a notice of the provisions of subsection 3.~~

~~2. The instrument must contain a provision setting forth the:~~

- ~~(a) Branch of the Armed Forces [;] of the United States or force of the Nevada National Guard;~~
  - ~~(b) Unit of current assignment;~~
  - ~~(c) Current rank or grade; and~~
  - ~~(d) Social security number or service number,~~
- ~~→ of the parent who is the member.~~

~~3. The appointment of a guardian pursuant to this section:~~

- ~~(a) May be terminated by a written instrument signed by either parent of the child if that parent has not been deprived of his parental rights to the child; and~~
- ~~(b) Is terminated by any order of a court. (Deleted by amendment.)~~

Sec. 9. NRS 205.460 is hereby amended to read as follows:

205.460 1. Every person who counterfeits, forges, alters, erases or obliterates, or who attempts to counterfeit, forge, alter, erase or obliterate , any card, writing, paper or document, or any photocopy print, photostat [;] or other replica of any card, writing, paper or document , which is designed for the purpose of personal identification and which bears the age of the holder or purported holder thereof, or which, although not designed for the purpose of personal identification, is commonly used, or capable of being used , for the purpose of personal identification and bears the age of the holder or purported holder thereof, with the intention that ~~such~~ the card, writing, paper or document, or photocopy print, photostat or other replica thereof, be used by a person under the age of 21 years to establish falsely or misrepresent his actual age for the purpose of purchasing alcoholic liquor or being served alcoholic liquor in a place where it is served for consumption on the premises, or entering gambling establishments, or engaging in gambling in gambling establishments, ~~shall be~~ is guilty of a misdemeanor. For the purposes of this subsection, the cards, writings, papers or documents and the photocopy prints or other replicas thereof which, although not designed for the purpose of personal identification, are commonly used, or capable of being used, for the purpose of personal identification, include, but are not limited to, an operator's license, a chauffeur's license, a fishing or hunting license, a selective service card, an organizational membership card,

~~certificate~~ proof of discharge or release from the Armed Forces ~~of~~ of the United States, or a certificate or other record of birth.

2. Every person who sells, lends, gives away or offers, or attempts to sell, lend, give away or offer, any counterfeited, forged, altered, erased or obliterated card, writing, paper or document, or photocopy print, photostat or other replica thereof, of the kind mentioned in subsection 1, to a person under the age of 21 years ~~shall be~~ is guilty of a gross misdemeanor.

3. Every person under the age of 21 years who uses or attempts to use or proffers any counterfeited, forged, erased or obliterated card, writing, paper, document, or any photocopy print, photostat or other replica thereof, of the kind mentioned in subsection 1, for the purpose and with the intention of purchasing alcoholic liquor or being served alcoholic liquor in a place where it is served for consumption on the premises, or entering gambling establishments, or engaging in gambling in gambling establishments, or who actually purchases alcoholic liquor or is actually served alcoholic liquor in a place where it is served for consumption on the premises, or actually enters a gambling establishment or actually gambles therein, when the purchase, service, entering or gambling is induced or permitted by the presentation of ~~any such~~ the card, writing, paper or document, or any photocopy print, photostat or other replica thereof, ~~shall be~~ is guilty of a misdemeanor.

4. In any criminal prosecution or proceeding for the suspension or revocation of any license based upon the violation of any law making it unlawful to sell, serve or furnish a person under the age of 21 years alcoholic liquor or upon violation of any law making it unlawful to allow a person under the age of 21 years to enter a gambling establishment or engage in gambling in a gambling establishment, proof that the defendant licensee, or his agent or employee, demanded and was shown, immediately before furnishing any alcoholic liquor to a person under the age of 21 years or allowing a person under the age of 21 years to enter a gambling establishment or engage in gambling in a gambling establishment, bona fide documentary evidence of the majority and identity of the person issued by a federal, state, county or municipal government, or subdivision or agency thereof, including, but not limited to, an operator's license for a motor vehicle, a registration certificate issued under the Federal Selective Service Act ~~of~~ or an identification card issued to a member of the Armed Forces ~~of~~ of the United States, is a defense to the prosecution or proceeding for the suspension or revocation of any license.

Sec. 10. NRS 213.110 is hereby amended to read as follows:

213.110 1. Subject to the provisions of NRS 213.120, the Board shall establish rules and regulations under which any prisoner who is now or hereafter may be imprisoned in the state prison, or in another jurisdiction as provided in NRS 176.045, may be allowed to go upon parole outside of the buildings or enclosures, but to remain, while on parole, in the legal custody and under the control of the Board and subject at any time to be taken within the enclosure of the state prison.

2. The Board, for good cause and ~~in order~~ to permit induction into the ~~military service~~ *Armed Forces* of the United States, may suspend paroles during the period of the parolee's active service after induction into the ~~military service.~~ *Armed Forces of the United States.*

Sec. 11. NRS 240.1645 is hereby amended to read as follows:

240.1645 1. A notarial act has the same effect under the law of this State as if performed by a notarial officer of this State if performed anywhere by any of the following persons under authority granted by the law of the United States:

- (a) A judge, clerk or deputy clerk of a court;
- (b) A commissioned officer on active duty in the ~~military service~~ *Armed Forces* of the United States;
- (c) An officer of the foreign service or consular officer of the United States; or
- (d) Any other person authorized by federal law to perform notarial acts.

2. The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

3. The signature and indicated title of an officer listed in paragraph (a), (b) or (c) of subsection 1 conclusively establish the authority of a holder of that title to perform a notarial act.

Sec. 12. NRS 240.1655 is hereby amended to read as follows:

240.1655 1. A notarial act must be evidenced by a certificate that:

(a) Identifies the county, including, without limitation, Carson City, in this State in which the notarial act was performed in substantially the following form:

State of Nevada  
County of .....

(b) Except as otherwise provided in this paragraph, includes the name of the person whose signature is being notarized. If the certificate is for certifying a copy of a document, the certificate must include the name of the person presenting the document. If the certificate is for the jurat of a subscribing witness, the certificate must include the name of the subscribing witness.

(c) Is signed and dated in ink by the notarial officer performing the notarial act.

(d) If the notarial officer performing the notarial act is a notary public, includes the statement imprinted with the stamp of the notary public, as described in NRS 240.040.

(e) If the notarial officer performing the notarial act is not a notary public, includes the title of the office of the notarial officer and may include the official stamp or seal of that office. If the officer is a commissioned officer on active duty in the ~~military service~~ *Armed Forces* of the United States, the certificate must also include the officer's rank.

2. A notarial officer shall:

(a) In taking an acknowledgment, determine, from personal knowledge or satisfactory evidence, that the person making the acknowledgment is the person whose signature is on the document. The person who signed the document shall present the document to the notarial officer in person.

(b) In administering an oath or affirmation, determine, from personal knowledge or satisfactory evidence, the identity of the person taking the oath or affirmation.

(c) In certifying a copy of a document, photocopy the entire document and certify that the photocopy is a true and correct copy of the document that was presented to the notarial officer.

(d) In making or noting a protest of a negotiable instrument, verify compliance with the provisions of subsection 2 of NRS 104.3505.

(e) In executing a jurat, administer an oath or affirmation to the affiant and determine, from personal knowledge or satisfactory evidence, that the affiant is the person named in the document. The affiant shall sign the document in the presence of the notarial officer. The notarial officer shall administer the oath or affirmation required pursuant to this paragraph in substantially the following form:

Do you (solemnly swear, or affirm) that the statements in this document are true, (so help you God)?

3. A certificate of a notarial act is sufficient if it meets the requirements of subsections 1 and 2 and it:

(a) Is in the short form set forth in NRS 240.166 to 240.169, inclusive;

(b) Is in a form otherwise prescribed by the law of this State;

(c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

4. For the purposes of paragraphs (a), (b) and (e) of subsection 2, a notarial officer has satisfactory evidence that a person is the person whose signature is on a document if he:

(a) Is personally known to the notarial officer;

(b) Is identified upon the oath or affirmation of a credible witness;

(c) Is identified on the basis of an identifying document which contains a signature and a photograph;

(d) Is identified on the basis of a consular identification card;

(e) Is identified upon an oath or affirmation of a subscribing witness who is personally known to the notarial officer; or

(f) In the case of a person who is 65 years of age or older and cannot satisfy the requirements of paragraphs (a) to (e), inclusive, is identified upon the basis of an identification card issued by a governmental agency or a senior citizen center.

5. An oath or affirmation administered pursuant to paragraph (b) of subsection 4 must be in substantially the following form:

Do you (solemnly swear, or affirm) that you personally know  
 .....(name of person who signed the document)....., (so help  
 you God)?

6. A notarial officer shall not affix his signature over printed material.

7. By executing a certificate of a notarial act, the notarial officer certifies that the notarial officer has complied with all the requirements of this section.

8. As used in this section, unless the context otherwise requires, "consular identification card" means an identification card issued by a consulate of a foreign government, which consulate is located within the State of Nevada.

Sec. 13. NRS 244.340 is hereby amended to read as follows:

244.340 1. County commissioners of the several counties shall provide by ordinance for the licensing of tent shows, circuses, theme parks and permanent exhibitions in their respective counties.

2. In no case may a license for a tent show or circus be issued for a sum of less than \$25 per day or more than \$300 per day, which must be in addition to any license provided by ordinance in any incorporated municipality, city or town of the county. Upon written application of any executive officer of any local post or unit of any national organization of ~~ex servicemen,~~ *veterans* acting in his official capacity, such a license or licenses must be issued without charge for not to exceed 2 weeks in any calendar year, if the local post or unit ~~is to~~ will participate in the show or the proceeds thereof.

3. In no case may a license for a theme park or permanent exhibition be issued for a sum of less than \$25 per day or more than \$100 per day, which must be in addition to any license provided by ordinance in any incorporated municipality, city or town of the county.

4. Upon compliance with the terms of the ordinance, the owner or operator of the theme park or permanent exhibition is not required to acquire any license or certificate from a state agency which would otherwise be required to operate a lift, tramway, monorail, elevator, escalator, roller coaster or other conveyance used primarily in connection with the theme park or permanent exhibit.

Sec. 14. NRS 268.0975 is hereby amended to read as follows:

268.0975 1. The governing body of each city in this State shall provide by ordinance for the licensing of tent shows, circuses, theme parks and permanent exhibitions in their respective cities.

2. In no case may a license for a tent show or circus be issued for a sum of less than \$25 per day or more than \$300 per day, which must be in addition to any license provided by ordinance in the county in which the city is located. Upon written application of any executive officer of any local post or unit of any national organization of ~~ex servicemen,~~ *veterans* acting in his official capacity, such a license or licenses must be issued without charge for not to exceed 2 weeks in any calendar year, if the local post or unit ~~is to~~ will participate in the show or the proceeds thereof.

3. In no case may a license for a theme park or permanent exhibition be issued for a sum of less than \$25 per day or more than \$100 per day, which must be in addition to any license provided by ordinance in the county in which the city is located.

4. Upon compliance with the terms of the ordinance, the owner or operator of the theme park or permanent exhibition is not required to acquire any license or certificate from a state agency which would otherwise be required to operate a lift, tramway, monorail, elevator, escalator, roller coaster or other conveyance used primarily in connection with the theme park or permanent exhibit.

Sec. 15. NRS 278.0166 is hereby amended to read as follows:

278.0166 "Military installation" means a base or facility at which or from which the Air Force, Army, Coast Guard, Marine Corps, Navy, Air Force Reserve, Army Reserve, Coast Guard Reserve, Marine Corps Reserve, Navy Reserve or Nevada National Guard conducts exercises, maneuvers, operations, patrols or training.

Sec. 16. ~~NRS 281.060 is hereby amended to read as follows:~~

~~281.060 1. Only citizens or wards of the United States or [persons who have been honorably discharged from the military service of the United States] veterans may be employed by any officer of the State of Nevada, by any political subdivision of the State [,] or by any person acting under or for such an officer in any office or department of the State of Nevada or political subdivision of the State.~~

~~2. In all cases where persons are so employed, preference must be given, if the qualifications of the applicants are equal:~~

~~(a) First [: To honorably discharged military personnel of the United States who are citizens of the State of Nevada.], to veterans.~~

~~(b) Second [: To ], to other [citizens] residents of the State of Nevada.~~

~~3. [Nothing in this section prevents:] This section does not prevent:~~

~~(a) The working of prisoners by the State of Nevada, or by any political subdivision of the State, on street or road work or other public work.~~

~~(b) The employment of aliens, who have not forfeited their right to citizenship by claiming exemption from military service, as common laborers in the construction of public roads, [when] if it can be shown that citizens or wards of the United States or [persons who have been honorably discharged from the military service of the United States] veterans are not available for such employment. Any alien so employed must be replaced by a citizen [,] or a ward of the United States or [ex service person of the United States] a veteran applying for employment.~~

~~(c) The employment of any teacher, instructor or professor authorized to teach in the United States under the teacher exchange programs as authorized by federal laws enacted by the Congress of the United States.~~

~~(d) Except as otherwise provided in this paragraph, the employment of aliens by the Nevada System of Higher Education in the technical, graduate assistant and student categories. Except in the foreign language departments,~~

~~not more than 5 percent of the total number of persons employed in the technical, graduate assistant and student categories may be aliens.~~

~~(e) [Employment] The employment of aliens in any state or political subdivision hospital.~~

~~4. Subject to the exceptions contained in this section, money must not be paid out of the State Treasury or out of the treasury of any political subdivision of [the] this State to any person employed on any of the work mentioned in this section unless the person is a citizen or ward or naturalized citizen of the United States.~~

~~5. Any officer of the State of Nevada, or of any political subdivision of [the] this State, or any person acting under or for such an officer, or any other person who violates any of the provisions of this section, is guilty of a misdemeanor. The penalties provided [for] in this section do not apply [where the violations result from misrepresentations] if the violation results from a misrepresentation made by the employee by the production of fraudulent papers evidencing citizenship in the United States. (Deleted by amendment.)~~

~~Sec. 17. [NRS 284.260 is hereby amended to read as follows:~~

~~284.260 1. In establishing the lists of eligible persons, certain preferences must be allowed for veterans [not dishonorably discharged from the Armed Forces of the United States.] For veterans with disabilities, 10 points must be added to the passing grade achieved on the examination. For [ex servicemen and women] veterans who have not suffered disabilities, and for the widows and widowers of veterans, 5 points must be added to the passing grade achieved on the examination.~~

~~2. Any person qualifying for preference points pursuant to subsection 1 is entitled to have the points applied to any open competitive examination in the classified service, but only to one promotional examination.~~

~~[3. For the purposes of this section, "veteran" has the meaning ascribed to "eligible veteran" in 38 U.S.C. § 4211.]] (Deleted by amendment.)~~

~~Sec. 18. NRS 286.300 is hereby amended to read as follows:~~

~~286.300 Except as otherwise required as a result of NRS 286.537:~~

~~1. Any member of the System may, except as otherwise provided in subsection 5, purchase all previous creditable service performed with his present employing agency if that service was performed before the enrollment of his agency in the System, even if the service is still creditable in some other system where it cannot be cancelled. The public employer must certify the inclusive dates of employment and number of hours regularly worked by the member to validate the service. The member must pay the full actuarial cost as determined by the actuary.~~

~~2. In addition to the purchases authorized pursuant to the provisions of subsections 1 and 3, any member who has 5 years of creditable service may, except as otherwise provided in subsection 5, purchase up to 5 years of service. The member must pay the full actuarial cost of the service as determined by an actuary of the System.~~

3. In addition to the purchases authorized pursuant to the provisions of subsections 1 and 2 and in addition to any free credit received pursuant to NRS 286.303 and 286.479, any member who has 5 years of creditable service ~~[, served on active military duty during the period beginning on the date proclaimed by the President of the United States as the date on which Operation Desert Storm, Operation Enduring Freedom or Operation Iraqi Freedom began]~~ and was honorably discharged or released from active duty ~~and is a veteran]~~ may, except as otherwise provided in subsection 5, purchase a number of months of service equal to the number of full months he served on active military duty, but in no case may the service purchased pursuant to this subsection exceed 3 years. The member must pay the full actuarial cost of the service as determined by an actuary of the System.

4. In addition to the purchases authorized pursuant to the provisions of subsections 1 and 3, any member who:

- (a) Is a licensed teacher;
- (b) Has 5 years of creditable service;
- (c) Is, pursuant to statute, regulation or contract, entitled to payment for unused sick leave; and

(d) Is employed by the board of trustees of a school district that has, pursuant to subsection 5 of NRS 391.180, provided for the payment of unused sick leave in the form of purchase of service,

↪ may, except as otherwise provided in subsection 5, cause to be purchased on his behalf service credit, not to exceed the number of hours of unused sick leave or 1 year, whichever is less. The full actuarial cost of the service as determined by an actuary of the System must be paid for such a purchase. Any service credit purchased pursuant to this subsection must be included as a part of, and is not in addition to, service purchased pursuant to subsection 2.

5. A person who becomes a member of the System for the first time on or after January 1, 2000, may, on or after July 1, 2001, purchase creditable service pursuant to subsection 1, 2 or 3, or cause to be purchased on his behalf service credit pursuant to subsection 4, only if, at the time of the purchase, he is employed by a participating public employer in a position eligible for membership in the System.

6. Any member of the System may use:

(a) All or any portion of the balance of the member's interest in a qualified trust pursuant to section 401(a) of the Internal Revenue Code, 26 U.S.C. § 401(a); or

(b) The money contained in an individual retirement account or an individual retirement annuity of a member, the entire amount of which is:

(1) Attributable to a qualified distribution from a qualified trust pursuant to section 401(a) of the Internal Revenue Code, 26 U.S.C. § 401(a); and

(2) Qualified as an eligible rollover distribution pursuant to section 402 of the Internal Revenue Code, 26 U.S.C. § 402,

↪ to purchase creditable service pursuant to subsection 1, 2 or 3.

7. A member of the System who purchases creditable service pursuant to subsection 1, 2 or 3 is entitled to receive a refund of any contributions paid toward the purchase of the service only if he is no longer in the employ of a participating public employer.

8. If a member of the System enters into an agreement whereby he agrees to pay for the purchase of service credit in installments and he defaults on that agreement, the member is entitled to receive service credit in the proportion that the principal paid bears to the principal due under the agreement.

Sec. 19. NRS 286.303 is hereby amended to read as follows:

286.303 A member who met all requirements for free military credit as of May 19, 1975, but who did not have 5 years of consecutive service credit after his return from the Armed Forces ~~of~~ *of the United States* is entitled to free credit for military service as soon as he attains 5 years of consecutive service credit under the System.

Sec. 20. NRS 286.367 is hereby amended to read as follows:

286.367 1. The volunteers of a regularly organized and recognized fire department may, by the joint application of a majority of those volunteers addressed to the Board, become members of the System. A volunteer firefighter who joins a fire department of which all the volunteers have become members of the System becomes a member of the System. The volunteers of a participating fire department may withdraw from the System by the joint application of a majority of those volunteers addressed to the Board.

2. The city, town, county or district which recognizes the volunteers is the public employer and shall collect and pay over the employee's share and pay the employer's share of the contribution to the Public Employees' Retirement Fund and the Public Employees' Retirement Administrative Fund, in the manner prescribed in this chapter. The local government may, if so requested by the volunteers, further contribute any amount by which the sum receivable by each volunteer for any month is less than the amount of his required share of the contribution, but no further contributions may be placed in a volunteer's account with the System or refunded to a volunteer or his employer upon the volunteer's termination.

3. In determining the amount of contributions to be paid for the volunteers, they are assumed to be receiving a wage established by the local government which is not less than \$150 ~~per~~ *or* more than \$2,000 per month.

4. Except as otherwise required as a result of NRS 286.535 or 286.537, the average compensation for a volunteer firefighter is the weighted average of:

(a) The assumed wage as a volunteer firefighter; and

(b) The average salary in other covered employment which, if the service in that employment exceeds 3 years, is calculated upon the 3 highest consecutive years.

↪ The weight given to the assumed wage and average salary, respectively, is proportionate to the length of service in each capacity. Except as otherwise required as a result of NRS 286.535 or 286.537, average compensation is computed from the sum of the assumed wage and actual salary if a member is employed simultaneously as a volunteer firefighter and as a regular member.

5. Any dispute over the status of a person as a volunteer firefighter under this section must be conclusively determined by the Board.

6. A volunteer firefighter may purchase all previous service as a volunteer firefighter with any volunteer fire department which is a member of the System. To validate ~~such~~ that service, the volunteer firefighter must pay the full cost as determined by the actuary. The employing agency may pay the employer's share of the cost but is not required to do so.

7. In addition to the purchases authorized pursuant to the provisions of subsections 6 and 8, a volunteer firefighter who has 5 years of creditable service as a volunteer firefighter may purchase up to 5 years of service to add to his volunteer service. The member must pay the full actuarial cost of the service as determined by an actuary of the System.

8. In addition to the purchases authorized pursuant to the provisions of subsections 6 and 7 and in addition to any free credit received pursuant to NRS 286.303 and 286.479, a volunteer firefighter who has 5 years of creditable service as a volunteer firefighter ~~{, served on active military duty during the period beginning on the date proclaimed by the President of the United States as the date on which Operation Desert Storm, Operation Enduring Freedom or Operation Iraqi Freedom began} and was honorably discharged or released from active duty ~~(and is a veteran)~~~~ may purchase a number of months of service equal to the number of full months he served on active military duty, but in no case may the service purchased pursuant to this subsection exceed 3 years. The member must pay the full actuarial cost of the service as determined by an actuary of the System.

Sec. 21. NRS 286.479 is hereby amended to read as follows:

286.479 1. A member who has 5 years or more of service credit *and is a veteran* is entitled to receive free service credit for military service ~~{for the period beginning on the date proclaimed by the President of the United States as the date on which hostilities began in the Persian Gulf Crisis and ending on the date proclaimed by the President of the United States as the termination of hostilities in the Persian Gulf Crisis}~~ if the member:

(a) Began active military duty within 6 months after the last date of employment or leave of absence without pay with a participating public employer; and

(b) Returned to employment with a participating public employer within 1 year after being honorably discharged or released from active duty ~~under conditions other than dishonorable.~~

2. A member who meets all ~~of~~ the requirements of subsection 1 except that he does not have 5 years of service credit is entitled to receive the free credit pursuant to subsection 1 as soon as he attains 5 years of service credit.

Sec. 22. ~~[NRS 293.105 is hereby amended to read as follows:~~

~~293.105 "Service of the United States" means the Armed Forces of the United States, [and the auxiliaries thereof, the United States Coast Guard,] the merchant marine service of the United States, civilian employment by the Federal Government beyond the boundaries of the State of Nevada, and religious groups and welfare agencies officially attached to and serving with the Armed Forces of the United States.] (Deleted by amendment.)~~

Sec. 23. NRS 293.320 is hereby amended to read as follows:

293.320 1. The county clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper county.

2. *Members of the Armed Forces* ~~[personnel]~~ *of the United States* who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; or

(b) The form provided by the Federal Government for registration and request of an absent ballot,

↳ before receiving an absent ballot.

3. If the county clerk rejects an application submitted pursuant to subsection 2 or submitted by an overseas voter, the county clerk shall inform the applicant of the reason for the rejection.

Sec. 24. NRS 293.4685 is hereby amended to read as follows:

293.4685 1. The Secretary of State shall:

(a) Provide information regarding voter registration and absentee voting by *members of the Armed Forces* ~~[personnel]~~ *of the United States* and overseas voters;

(b) Within 90 days after the date of each general election and general city election in which electors voted for federal offices, submit to the Election Assistance Commission established pursuant to 42 U.S.C. § 15321 a report of the combined number of absentee ballots transmitted to absent *members of the Armed Forces* ~~[personnel]~~ *of the United States* and overseas voters for the election and the combined number of ~~[such]~~ *those* ballots that were returned by ~~[such]~~ *those* voters and cast in the election;

(c) Make each report submitted pursuant to paragraph (b) available to the public; and

(d) Adopt any regulations which are necessary to comply with the provisions of the Help America Vote Act of 2002, Public Law 107-252, and which are not inconsistent with the provisions of this chapter to the extent the provisions of this chapter are consistent with the Help America Vote Act of 2002, Public Law 107-252.

2. Each county and city clerk shall provide such information as is requested by the Secretary of State to comply with the provisions of this section.

Sec. 25. NRS 293.504 is hereby amended to read as follows:

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons in this State who are disabled;

(c) The offices of the Department of Motor Vehicles;

(d) The offices of the city and county clerks;

(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable; and

(f) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) Make applications to register to vote which may be returned by mail available to each person who applies for or receives services or assistance from the agency;

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election. The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the fifth Sunday preceding an election if he receives the application not later than 5 days after that date.

4. The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the *Armed Forces of the United States*. ~~{Armed Forces.}~~

Sec. 26. NRS 293C.320 is hereby amended to read as follows:

293C.320 1. The city clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper city.

2. *Members of the Armed Forces* ~~{personnel}~~ *of the United States* who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; or

(b) The form provided by the Federal Government for registration and request of an absent ballot,

↪ before receiving an absent ballot.

Sec. 27. ~~[NRS 315.150 is hereby amended to read as follows:  
315.150 Unless the context otherwise requires, the definitions contained in NRS 315.160 to [315.300,] 315.290, inclusive, govern the construction of NRS 315.140 to 315.780, inclusive.] (Deleted by amendment.)~~

Sec. 28. ~~[NRS 315.510 is hereby amended to read as follows:  
315.510 1. In the operation or management of housing projects, an authority shall at all times observe the following duties with respect to rentals and tenant admissions:~~

~~{1. It}~~

~~(a) The authority may rent or lease the dwelling accommodations therein only to persons of low income and, as among low income persons who are eligible applicants for occupancy in dwellings of given sizes and at specified rents, shall extend the following preferences in the selection of tenants:~~

~~{(a)} (1) First [: To], to families who are to be displaced by any low rent housing project or by any public slum clearance or redevelopment project initiated after January 1, 1947, or who were so displaced within 3 years before making application on authority for admission to any low rent housing. Among such families, first preference must be given to families of veterans with a disability whose disability has been determined by the Department of Veterans Affairs to be service connected, second preference must be given to families of deceased veterans [and servicemen] whose death has been determined by the Department of Veterans Affairs to be service connected [,] and third preference must be given to families of other veterans =[and servicemen.~~

~~{(b)} (2) Second [: To], to families of other veterans . [and servicemen.] Among such families, first preference must be given to families of veterans with a disability whose disability has been determined by the Department of Veterans Affairs to be service connected [,] and second preference must be given to families of deceased veterans [and servicemen] whose death has been determined by the Department of Veterans Affairs to be service connected.~~

~~{2. It}~~

~~(b) The authority may rent or lease to a tenant dwelling accommodations consisting of a number of rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.~~

~~{3. An}~~

~~(c) The authority shall not accept any person or persons as tenants in any housing project if the person or persons who occupy the dwelling accommodations have, at the time of admission, an aggregate annual net~~

~~income, less an exemption of \$200 for each minor member of the family other than the head of the family and his spouse, in excess of seven times the annual rental of the quarters to be furnished such person or persons, but [an] the authority may agree to conditions as to tenant eligibility or preference required by the Federal Government pursuant to federal law in any contract for financial assistance with the authority. In computing the rental for [this] the purpose of admitting tenants, there must be included in the rental the average annual cost, as determined by the authority, to occupants of heat, water, electricity, gas, cooking fuel and other necessary services or facilities, whether or not the charge for such services and facilities is included in the rental.~~

~~2. For the purpose of this section, a disability or death is "service connected" if the disability was incurred or aggravated, or the death resulted from a disability that was incurred or aggravated, in the line of duty in the Armed Forces of the United States. (Deleted by amendment.)~~

Sec. 29. ~~[NRS 315.580 is hereby amended to read as follows:~~

~~315.580 1. In addition to other powers conferred upon an authority by NRS 315.140 to 315.780, inclusive, an authority may acquire property and construct housing projects thereon for the purpose of leasing dwellings to [servicemen,] veterans and their families, and to the families of deceased [persons who served in the Armed Forces,] veterans, at rentals, excluding utilities, of not to exceed \$50 per month, during the existence of the acute shortage of housing available to [such] those persons as determined by applicable law or as may be provided for in any contract for financial assistance with the Federal Government.~~

~~2. In exercising the powers provided in this section, an authority [shall not be] is not subject to the limitations provided in NRS 315.500 or 315.510 during the period of acute housing shortage for veterans [and servicemen,] and their families, and the families of deceased [persons who served in the Armed Forces,] veterans, of moderate income. (Deleted by amendment.)~~

Sec. 30. ~~[NRS 315.590 is hereby amended to read as follows:~~

~~315.590 An authority, in addition to its other powers, [is authorized to] may cooperate with and lease from the Federal Government war housing projects constructed by the Federal Government, for the purpose of providing housing for veterans [and servicemen] and their families, [and] the families of deceased [persons who served in the Armed Forces,] veterans and persons engaged in war activities. [; provided, that such] Such war housing projects [shall not be] are not subject to the limitations provided in NRS 315.500 or 315.510. (Deleted by amendment.)~~

Sec. 31. NRS 319.060 is hereby amended to read as follows:

319.060 "Eligible family" means a person or family, selected without regard to race, creed, national origin or sex, determined by the Division to require such assistance as is made available by this chapter ~~[on account] because~~ of insufficient personal or family income after ~~[taking into consideration,] considering,~~ without limitation, such factors as:

1. The amount of the total income of that person or family available for housing needs;
2. The size of the family;
3. The cost and condition of housing facilities available;
4. The ability of the person or family to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing;
5. If appropriate, standards established for various federal programs determining eligibility based on income of those persons and families; and
6. Service in the Armed Forces of the United States with a minimum of 90 days on active duty ~~at some time between:~~
  - (a) ~~April 21, 1898, and June 15, 1903;~~
  - (b) ~~April 6, 1917, and November 11, 1918;~~
  - (c) ~~December 7, 1941, and December 31, 1946;~~
  - (d) ~~June 25, 1950, and January 31, 1955; or~~
  - (e) ~~January 1, 1961, and May 7, 1975;~~~~↪} during a period of war as defined in 38 U.S.C. § 101, and at least 2 years' continuous residence in Nevada immediately preceding any application for assistance under this chapter.~~

Sec. 32. ~~[NRS 338.130 is hereby amended to read as follows:~~

~~338.130 1. In all cases where persons are employed in the construction of public works, preference must be given, the qualifications of the applicants being equal:~~

~~(a) First [: To], to persons who:~~

~~(1) Have been [honorably] discharged or released from the [Army, Navy, Air Force, Marine Corps or Coast Guard] *Armed Forces* of the United States [, a reserve component thereof] or the Nevada National Guard [:] under conditions other than dishonorable; and~~

~~(2) Are [citizens] residents of the State of Nevada.~~

~~(b) Second [: To], to other [citizens] residents of the State of Nevada.~~

~~2. [Nothing in this section shall be construed to] *This section does not prevent the working of prisoners by a public body on a public work.*~~

~~3. In each contract for the construction of public works, a clause must be inserted to the effect that if the provisions of this section are not complied with by the contractor engaged on the public work, the contract is void, and any failure or refusal to comply with any of the provisions of this section renders any such contract void. All boards, commissions, officers, agents and employees [having the power to] *who may enter into contracts for the expenditure of public money on public works shall file in the Office of the Labor Commissioner the names and addresses of all contractors holding contracts with the public body, and upon the letting of new contracts, the names and addresses of [such] those new contractors must likewise be filed with the Labor Commissioner. Upon the demand of the Labor Commissioner, a contractor shall furnish a list of the names and addresses of all subcontractors employed by the contractor engaged on a public work.*~~

~~4. Subject to the exceptions contained in this section, no money may be paid out of the State Treasury or out of the treasury of any political subdivision of the State to any person employed on any work mentioned in this section unless there has been compliance with the provisions of this section.~~

~~5. Any contractor engaged on a public work or any other person who violates any of the provisions of this section is guilty of a misdemeanor. The penalties provided [for] in this section do not apply where violations thereof are due to misrepresentations made by the employee or employees. (Deleted by amendment.)~~

Sec. 33. 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 5, 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) duty during a period of war as defined in 38 U.S.C. § 101; or~~

(b) 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 a veteran~~ 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 a veteran~~ 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~~ that service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to ~~such~~ those persons on the basis of the original affidavits filed. ~~In the case of any~~ If a person ~~who has~~ entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed ~~in~~ on his behalf during the period of ~~such~~ that 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. ~~acceptable proof that the veteran was discharged or released from the Armed Forces of the United States under conditions other than dishonorable.~~

7. ~~If any~~ Any person who 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 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 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. 34. ~~NRS 361.091 is hereby amended to read as follows:~~

~~361.091 1. A bona fide resident of the State of Nevada who is a veteran that 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 an 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] The affidavit 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] *Acceptable proof that he was discharged or released from the Armed Forces of the United States under conditions other than dishonorable* 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.] *acceptable proof that he was discharged or released from the Armed Forces of the United States under conditions other than dishonorable.*~~

~~6. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:~~

~~(a) The *affiant is a surviving spouse* ; [was married to and living with the veteran who incurred a permanent service-connected disability for the 5 years preceding his death;]~~

~~(b) The 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; *and*~~

~~(c) The [surviving spouse has not remarried; and~~

~~(d) The surviving spouse] *affiant* 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] Any person who 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 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 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.~~

~~11. As used in this section:~~

~~(a) "Service-connected disability" means a disability that was incurred or aggravated in the line of duty in the Armed Forces of the United States.~~

~~(b) "Surviving spouse" means a person of the opposite sex who:~~

~~(1) Was the spouse of a veteran at the time of the veteran's death;~~

~~(2) If legally separated from the veteran on the date of the veteran's death, became legally separated because of the misconduct of the veteran or otherwise without the fault of the spouse; and~~

~~(3) Has not remarried.] (Deleted by amendment.)~~

Sec. 35. NRS 361.095 is hereby amended to read as follows:

361.095 1. The {funds,} *money*, furniture, paraphernalia and regalia owned and used exclusively by any post of any national organization of {ex servicemen or ex servicewomen} *veterans* 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]~~ If 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 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 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. 36. ~~[NRS 361.7366 is hereby amended to read as follows:~~

~~361.7366 "Income" means adjusted gross income, as defined in the Internal Revenue Code, and includes:~~

- ~~1. Tax free interest;~~
- ~~2. The untaxed portion of a pension or annuity;~~
- ~~3. Railroad retirement benefits;~~
- ~~4. Veterans' pensions and compensation;~~
- ~~5. Payments received pursuant to the federal Social Security Act, including supplemental security income, but excluding hospital and medical insurance benefits for the aged and disabled;~~
- ~~6. Public welfare payments, including allowances for shelter;~~
- ~~7. Unemployment insurance benefits;~~
- ~~8. Payments for lost time;~~
- ~~9. Payments received from disability insurance;~~
- ~~10. Disability payments received pursuant to workers' compensation insurance;~~
- ~~11. Alimony;~~
- ~~12. Support payments;~~
- ~~13. Allowances received by dependents of [servicemen;] veterans;~~
- ~~14. The amount of recognized capital gains and losses excluded from adjusted gross income;~~
- ~~15. Life insurance proceeds in excess of \$5,000;~~
- ~~16. Bequests and inheritances; and~~
- ~~17. Gifts of cash of more than \$300 not between household members and such other kinds of cash received by a household as the Department specifies by regulation. (Deleted by amendment.)~~

Sec. 37. NRS 365.220 is hereby amended to read as follows:

365.220 The provisions of this chapter requiring the payment of excise taxes do not apply to:

1. Motor vehicle fuel if it remains in interstate or foreign commerce.

2. Motor vehicle fuel, except aviation fuel, exported from this State by a supplier.

3. Aviation fuel or fuel for jet or turbine-powered aircraft exported from this State by a dealer.

4. Motor vehicle fuel or fuel for jet or turbine-powered aircraft sold to the United States Government for official use of the *Armed Forces of the United States*. ~~[Armed Forces.]~~

5. Motor vehicle fuel, other than aviation fuel, distributed or delivered on the order of the owner, to a supplier, or aviation fuel or fuel for jet or turbine-powered aircraft distributed or delivered on the order of the owner, to a dealer, if the dealer or supplier has furnished security in the amount prescribed in NRS 365.290 and has established to the satisfaction of the Department that the security is sufficient to ensure payment of all excise taxes as they may become due to the State from him under this chapter. Every dealer or supplier who claims an exemption shall report the distributions to the Department in such detail as the Department may require. If he does not do so, the exemption granted in this subsection is void and all fuel is considered distributed in this State subject fully to the provisions of this chapter.

6. Leaded racing fuel. As used in this subsection, "leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

Sec. 38. ~~[NRS 365.370 is hereby amended to read as follows:]~~

~~365.370 — Any person who exports any motor vehicle fuel or fuel for jet or turbine-powered aircraft from this State, or who sells any such fuel to the United States Government for official use of the *Armed Forces of the United States*, [Armed Forces,] or who buys and uses any such fuel for purposes other than for the propulsion of motor vehicles or jet or turbine-powered aircraft, and who has paid any tax on such fuel levied or directed to be paid as provided by this chapter, either directly by the collection of the tax by the vendor from the customer or indirectly by the addition of the amount of the tax to the price of the fuel, must be reimbursed and repaid the amount of the tax so paid by him, except as follows:~~

~~1. — Claims for refunds must be paid by prescribed classes in accordance with the regulations of the Department.~~

~~2. — The minimum claim for a refund must be based on at least 200 gallons of such fuel purchased in this State within a 6-month period which is used for a purpose that is exempt from payment of the excise taxes imposed by this chapter.~~

~~3. — No refund of motor vehicle fuel taxes may be made for off-highway use of motor vehicle fuel consumed in watercraft in this State for recreational purposes.~~

~~4. A person who exports, sells, buys or uses aviation fuel for any purpose is not entitled to reimbursement of any tax paid by him on such fuel.~~  
*(Deleted by amendment.)*

Sec. 39. NRS 370.280 is hereby amended to read as follows:

370.280 1. Upon proof satisfactory to the Department, refunds ~~shall~~ *must* be allowed for the face value of the cigarette revenue stamp tax paid, less any discount previously allowed, upon cigarettes that are sold to:

(a) The United States Government for Army, Air Force, Navy or Marine Corps purposes and are shipped to a point within this State to a place which has been lawfully ceded to the United States Government for Army, Air Force, Navy or Marine Corps purposes;

(b) Veterans' hospitals for distribution or sale to ~~servicemen with disabilities or ex-servicemen~~ *veterans* with disabilities interned therein, but not to civilians or civilian employees;

(c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the cigarette tax imposed under this chapter; or

(d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the cigarette tax imposed under this chapter.

2. Upon proof satisfactory to the Department, refunds ~~shall~~ *must* be allowed to cigarette dealers, or to manufacturers or their representatives, for the face value of the cigarette revenue stamp tax paid, less any discount previously allowed upon cigarettes destroyed because the cigarettes had become stale. Applications for refunds ~~shall~~ *must* be submitted in an amount of not less than \$15 and ~~shall~~ be accompanied by an affidavit of the applicant setting forth:

(a) The number of packages of cigarettes destroyed for which refund is claimed;

(b) The date or dates on which the cigarettes were destroyed and the place where destroyed;

(c) That the cigarettes were actually destroyed because they had become stale;

(d) By whom the cigarettes were destroyed; and

(e) ~~Other~~ *Any other* information which the Department may require.

3. Upon proof satisfactory to the Department, refunds may be allowed to licensed wholesale cigarette dealers for the face value of the cigarette metered machine stamp tax paid, less any discount previously allowed upon:

(a) The balance of unused stamps on the descending register of a cigarette meter machine destroyed by fire, if the cigarette meter counting positions can be determined by the manufacturer of the meter stamping machine;

(b) Cigarettes which were stamped on their carton covers because of stamping machine failure to open the carton and stamp the cigarette packs; or

(c) Cigarettes which were not stamped but were registered on the machine as being stamped because of failure of the meter counters.

4. Any refund ~~{shall}~~ *must* be paid as other claims against the State are paid.

Sec. 40. NRS 370.503 is hereby amended to read as follows:

370.503 1. Upon proof satisfactory to the Department, a refund must be allowed for the taxes paid pursuant to NRS 370.450, upon products made from tobacco other than cigarettes, that are sold to:

(a) The United States Government for the purposes of the Army, Air Force, Navy or Marine Corps and are shipped to a point within this State to a place which has been lawfully ceded to the United States Government for the purposes of the Army, Air Force, Navy or Marine Corps;

(b) Veterans' hospitals for distribution or sale to ~~{servicemen with disabilities or ex-servicemen}~~ *veterans* with disabilities interned therein, but not to civilians or civilian employees;

(c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the tax imposed pursuant to NRS 370.501; or

(d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the tax imposed pursuant to NRS 370.501.

2. Any refund must be paid as other claims against the State are paid.

Sec. 41. NRS 371.103 is hereby amended to read as follows:

371.103 1. Vehicles, to the extent of \$2,000 determined valuation, registered by any actual bona fide resident of the State of Nevada who:

~~(a) Has served a minimum of 90 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 a minimum of 90 continuous days on active duty none of which was for training purposes, who was assigned to active duty at some time between January 1, 1961, and May 7, 1975;~~

~~(c) 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~~

~~(d) duty during a period of war as defined in 38 U.S.C. § 101; or~~

~~(b) 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 ~~veteran are~~ exempt from taxation.

2. For the purpose of this section, the first \$2,000 determined valuation of vehicles in which such a person has any interest shall be deemed to belong to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he is an actual bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 ~~(a veteran)~~ and that the exemption is 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:

(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.

4. Persons in actual military service are exempt during the period of ~~such~~ that service from filing annual affidavits of exemption, and the Department shall grant exemptions to those persons on the basis of the original affidavits filed. ~~In the case of any~~ If a person ~~who has~~ entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed ~~in~~ on his behalf during the period of ~~such~~ that service by any person having knowledge of the facts.

5. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the Department 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. ~~acceptable proof that the veteran was discharged or released from the Armed Forces of the United States under conditions other than dishonorable.~~

6. ~~If any~~ Any person who files a false affidavit or produces false proof to the Department ~~, and~~ is guilty of a gross misdemeanor if, as a result of the false affidavit or false proof, a tax exemption is allowed to a person not entitled to the exemption. ~~, he is guilty of a gross misdemeanor.~~

7. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

Sec. 42. NRS 371.104 is hereby amended to read as follows:

371.104 1. A bona fide resident of the State of Nevada who ~~is a veteran that~~ has incurred a permanent service-connected disability ~~and~~ and has been honorably discharged from the Armed Forces of the United States.

or his surviving spouse, is entitled to a veteran's exemption from the payment of governmental services taxes on vehicles of the following determined valuations:

(a) If he has a disability of 100 percent, the first \$20,000 of determined valuation.

(b) If he has a disability of 80 to 99 percent, inclusive, the first \$15,000 of determined valuation.

(c) If he has a disability of 60 to 79 percent, inclusive, the first \$10,000 of determined valuation.

2. For the purpose of this section, the first \$20,000 of determined valuation of vehicles in which an applicant has any interest shall be deemed to belong entirely to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no 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.

4. Before allowing any exemption pursuant to the provisions of this section, the Department shall require proof of the applicant's status, and for that purpose shall require production of:

(a) A certificate from the Department of Veterans Affairs *or any other military document which shows* that ~~the veteran~~ *he* has incurred a permanent service-connected disability, ~~which shows~~ *and* the percentage of that disability; and

(b) Any one of the following:

(1) An honorable discharge;

(2) A certificate of satisfactory service; or

(3) A certified copy of either of these documents. ~~Acceptable proof that the applicant was discharged or released from the Armed Forces of the United States under conditions other than dishonorable.~~

5. A surviving spouse claiming an exemption pursuant to this section must file with the Department in the county where the exemption is claimed an affidavit declaring that:

(a) The ~~affiant is a~~ surviving spouse ~~is~~ was married to and living with the veteran with a disability for the 5 years preceding his death;

(b) The veteran with a disability was eligible for the exemption at the time of his death; and

(c) ~~The surviving spouse has not remarried. [affiant 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 3 and 4. 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.

6. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 371.103.

7. If any ~~[Any]~~ person ~~[who]~~ makes a false affidavit or produces false proof to the Department and ~~[and]~~ as a result of the false affidavit or false proof ~~[and]~~ the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

8. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

~~§ 9.—As used in this section:~~

~~(a) "Service connected disability" means a disability that was incurred or aggravated in the line of duty in the Armed Forces of the United States.~~

~~(b) "Surviving spouse" means a person of the opposite sex who:~~

~~(1) Was the spouse of a veteran at the time of the veteran's death;~~

~~(2) If legally separated from the veteran on the date of the veteran's death, became legally separated because of the misconduct of the veteran or otherwise without the fault of the spouse; and~~

~~(3) Has not remarried.]~~

Sec. 43. ~~[NRS 412.108 is hereby amended to read as follows:~~

~~412.108—1. The person or governmental entity applying for the rental of an armory or space within an armory must execute and deliver a written agreement which must include among its provisions his or its full name and address, the purpose for which its use is desired, the nature and manner of the intended use of the space, a reasonable rental to be paid for that use and the amounts to be paid for heating, lighting, janitorial and other services connected with its use. The terms and provisions of the agreement must be governed by Office regulations issued pursuant to this chapter, which regulations must include provisions designed to prevent unfair competition with privately owned property and business.~~

~~2. No agreement for use made pursuant to this section is effective until the agreement or lease has been approved and executed by the officer in charge of the armory or his authorized representative, and has been approved by his military superiors as prescribed by Office regulations issued pursuant to this chapter.~~

~~3. No agreement or lease made pursuant to this section may be assigned in whole or in part, [nor may] and no space may be sublet to or used by a person or entity not a party to the agreement, unless each assignment, subletting or use is first approved in writing by the officer in charge of the armory or his authorized representative.~~

~~4. All money paid or given, directly or indirectly, for the rental of an armory or to obtain an agreement or permission to use the armory [are] constitutes use fees within the meaning of this section and must be paid to the officer in charge of the armory or his authorized representative. Any person other than the officer in charge of the armory or his authorized representative who receives that money shall immediately pay over the money to the officer in charge of the armory or his authorized representative, who shall immediately forward one half of the money to the office of the Adjutant General to be placed in an account in the State General Fund entitled the Adjutant General's Special Armory Account, to be used by the Office for necessary repairs and improvements of state armories and construction of new facilities in the manner prescribed by Office regulations. The remainder of the money must be placed in an armory account to be kept by the officer in charge of the armory or his authorized representative, and used for military activities and affairs and to further relations with the community in which the armory is located. These expenditures must be made according to Office regulations and must be approved by a board of three persons appointed by the Adjutant General.~~

~~5. When the use of an armory is by a federal, state, county or municipal bureau, agency or department, [or] by any of the Armed Forces of the United States or [any of the reserve components thereof, or] by any unit of the reserve officers training corps, the Adjutant General may require the execution of a contract or agreement for that use, upon such terms and conditions as he prescribes. (Deleted by amendment.)~~

Sec. 44. NRS 412.144 is hereby amended to read as follows:

412.144 For all purposes under this chapter, members of the Nevada National Guard who enter and serve in the active military service of the *Armed Forces of the United States* in time of war under a call or order by the President or who enter and serve on active duty in the ~~[military service]~~ *Armed Forces of the United States* in time of peace in their status within the Army National Guard of the United States or Air National Guard of the United States and who thereafter return to the military service of the State are entitled to credit for time so served as if ~~[such]~~ *the service in the Armed Forces of the United States* had been rendered to the State.

Sec. 45. ~~[NRS 412.172 is hereby amended to read as follows:~~

~~412.172 1. A commissioned officer of the Nevada National Guard may tender his resignation at any time. A resignation must be tendered in writing through proper military channels in accordance with applicable federal laws and regulations and Office regulations. A resignation takes effect when properly accepted and announced in orders.~~

~~2. A commissioned officer desiring to accept an appointment or to enlist in the [active Army, Navy, Air Force, Marine Corps or Coast Guard] *Armed Forces* of the United States or a reserve component thereof must first obtain a conditional release from his commander. A conditional release must be issued in accordance with this chapter and Office regulations [.] and must include certification that the officer is properly cleared of his responsibility for all state and United States property and public money [.] and that he is not indebted to the State or to the organization to which he belongs. An officer so released shall be deemed to have resigned upon presentation of evidence that he has accepted an appointment or enlisted in the force to which released, and the resignation must be announced in orders.~~

~~3. No officer is entitled to resign his commission who is under arrest, suspension or [who is under] orders to be returned to any military court for delinquency. (Deleted by amendment.)~~

Sec. 46. NRS 412.236 is hereby amended to read as follows:

412.236 "Military" refers to any [or all] *branch* of the Armed Forces [.] of the United States.

Sec. 47. NRS 412.244 is hereby amended to read as follows:

412.244 "Rank" means the order of precedence among members of the Armed Forces [.] of the United States.

Sec. 48. NRS 414.060 is hereby amended to read as follows:

414.060 1. The Governor is responsible for carrying out the provisions of this chapter [.] and , in the event of an emergency or disaster beyond local control, may assume direct operational control over all or any part of the functions of emergency management within this State.

2. In performing his duties under this chapter, the Governor may cooperate with the Federal Government, with other states and with private agencies in all matters pertaining to emergency management in this State and the nation.

3. In performing his duties under this chapter and to effect its policy and purpose, the Governor may:

(a) Make, amend and rescind the necessary orders and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him in this chapter, with due consideration of the plans provided by the Federal Government.

(b) Prepare a comprehensive [state] emergency management plan *for this State* and develop a program for emergency management in this State to be integrated into and coordinated with the plans of the Federal Government and of other states for emergency management to the fullest possible extent, and coordinate the preparation of plans and programs for emergency management by the political subdivisions of this State to be integrated into and coordinated with the plan and program of this State to the fullest possible extent.

(c) In accordance with the plan and program for the emergency management in this State, procure supplies and equipment, institute planning,

training and exercise programs, carry out public information programs, and take all other preparatory steps, including the partial or full mobilization of organizations for emergency management in advance of an actual emergency or disaster, to ensure the availability of adequately trained and equipped forces in time of need.

(d) Make such studies and surveys of industries, resources and facilities in this State as may be necessary to ascertain the capabilities of the State for emergency management and plan for the most efficient use thereof.

(e) On behalf of this State, enter into mutual aid agreements with other states and coordinate mutual aid plans between political subdivisions of this State.

(f) Delegate any administrative authority vested in him under this chapter, and provide for the subdelegation of any such authority.

(g) Cooperate with the President of the United States and the heads of the Armed Forces ~~of~~ *of the United States*, the agency of the United States for emergency management and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to emergency management in the State and nation, including the direction or control of:

(1) Mobilizing forces for emergency management and other tests and exercises.

(2) Mechanical devices to be used in connection with warnings and signals for emergencies or disasters.

(3) The effective screening or extinguishing of all lights and lighting devices and appliances.

(4) Coordinating the efforts of all public utilities in terminating and restoring service to the general public during an emergency or disaster.

(5) The conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency or disaster.

(6) Public meetings or gatherings.

(7) The evacuation and reception of the general public during an attack or an emergency or disaster.

Sec. 49. ~~[NRS 427A.485 is hereby amended to read as follows:~~

~~427A.485 "Income" means adjusted gross income, as defined in the Internal Revenue Code, and includes:~~

- ~~1. Tax free interest;~~
- ~~2. The untaxed portion of a pension, individual retirement account or annuity;~~
- ~~3. Railroad retirement benefits;~~
- ~~4. Veterans' pensions and compensation;~~
- ~~5. Payments received pursuant to the federal Social Security Act, including supplemental security income, but excluding hospital and medical insurance benefits for persons who are aged or disabled;~~
- ~~6. Public welfare payments, including allowances for shelter;~~

- ~~7. Unemployment insurance benefits;~~  
~~8. Payments for lost time;~~  
~~9. Payments received from disability insurance;~~  
~~10. Disability payments received pursuant to workers' compensation insurance;~~  
~~11. Alimony;~~  
~~12. Support payments;~~  
~~13. Allowances received by dependents of [servicemen;] veterans;~~  
~~14. The amount of recognized capital gains and losses excluded from adjusted gross income;~~  
~~15. Life insurance proceeds in excess of \$5,000;~~  
~~16. Bequests and inheritances; and~~  
~~17. Gifts of cash of more than \$300 not between household members and such other kinds of cash received by a household as the Division specifies by regulation.] (*Deleted by amendment.*)~~

Sec. 50. [NRS 451.420 is hereby amended to read as follows:

~~451.420 1. Notice of death must be given to the Committee in all cases of unclaimed indigent persons.~~

~~2. If any relative, by blood or marriage, claims the body for burial at the expense of the relative, the body must not be delivered to the Committee, but must be surrendered to the claimant for interment.~~

~~3. No such body may be delivered to the Committee if any friend of the deceased, any representative of a fraternal society of which the deceased was a member, any representative of a veterans' organization recognized by the Executive Director for Veterans' Services [,] or any representative of any charitable or religious organization claims the body for burial at its expense.~~

~~4. If the deceased person was [an honorably discharged member of] discharged or released from the Armed Forces of the United States or the [State,] Nevada National Guard under conditions other than dishonorable, the body must not be delivered to the Committee, but must be buried in accordance with the provisions of the existing laws. If a veterans' organization claims the body of a deceased veteran pursuant to subsection 3, the veterans' organization must provide a military funeral.] (*Deleted by amendment.*)~~

Sec. 51. [NRS 482.3755 is hereby amended to read as follows:

~~482.3755 1. An owner of a motor vehicle who is a resident of this State and is a member of the Nevada Wing of the Civil Air Patrol may, upon application on a form prescribed and furnished by the Department, signed by the member and his commanding officer and accompanied by proof of membership, be issued license plates upon which is inscribed "CIVIL AIR PATROL" with four consecutive numbers. The fee for the special license plates is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The annual fee for a renewal sticker is \$10.~~

~~2. Each member may request two sets of license plates as described in subsection 1. The second set of license plates for an additional vehicle must~~

~~have a different number than the first set of license plates issued to the same member. The license plates may only be used on private passenger vehicles or nonecommercial trucks.~~

~~3. Any member of the Nevada Wing of the Civil Air Patrol who retires or is [honorably] discharged or released under conditions other than dishonorable may retain any license plates issued to him pursuant to subsection 1. If a member is dishonorably discharged, he shall surrender any of these special plates in his possession to the Department at least 10 days before his discharge and, in lieu of those plates, is entitled to receive regular Nevada license plates.] (Deleted by amendment.)~~

Sec. 52. ~~[NRS 482.376 is hereby amended to read as follows:~~

~~482.376 1. An owner of a motor vehicle who is a resident of this State and is an enlisted or commissioned member of the Nevada National Guard may, upon application on a form prescribed and furnished by the Department, signed by the member and his commanding officer and accompanied by proof of enlistment, be issued license plates upon which is inscribed NATL GUARD with four consecutive numbers. The applicant shall comply with the laws of this State concerning motor vehicles, including the payment of the regular registration fees, as prescribed by this chapter. There is an additional fee of \$5 for the issuance of those plates.~~

~~2. Each member may request two sets of license plates as described in subsection 1. The second set of license plates for an additional vehicle must have a different number than the first set of license plates issued to the same member. The license plates may only be used on private passenger vehicles or nonecommercial trucks.~~

~~3. Any member of the Nevada National Guard, other than the Adjutant General, who retires or is [honorably] discharged or released under conditions other than dishonorable may retain any license plates issued to him pursuant to subsection 1. The Adjutant General shall surrender any license plates issued to him as Adjutant General to the Department when he leaves office, and may then be issued special license plates as described in subsection 1. If a member is dishonorably discharged, he shall surrender any of these special plates in his possession to the Department at least 10 days before his discharge and, in lieu of those plates, is entitled to receive regular Nevada license plates.] (Deleted by amendment.)~~

Sec. 53. ~~[NRS 482.3763 is hereby amended to read as follows:~~

~~482.3763 1. The Director shall order the preparation of special license plates for the support of outreach programs and services for veterans and their families and establish procedures for the application for and issuance of the plates.~~

~~2. The Department shall, upon application therefor and payment of the prescribed fees, issue special license plates for the support of outreach programs and services for veterans and their families to:~~

~~(a) A veteran of the [Army, Navy, Air Force, Marine Corps or Coast Guard] Armed Forces of the United States [, a reserve component thereof] or the Nevada National Guard; or~~

~~(b) The spouse, parent or child of a person described in paragraph (a).  
 The plates must be inscribed with the word "VETERAN" and with the seal of the branch of the Armed Forces of the United States or the seal of the Nevada National Guard, as applicable, requested by the applicant. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with special license plates for the support of outreach programs and services for veterans and their families if that person pays the fees for the personalized prestige license plates in addition to the fees for the special license plates for the support of outreach programs and services for veterans and their families pursuant to subsection 4.~~

~~3. If, during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall:~~

~~(a) Retain the plates and affix them to another vehicle which meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or~~

~~(b) Within 30 days after removing the plates from the vehicle, return them to the Department.~~

~~4. In addition to all other applicable registration and license fees and governmental services taxes, and to the special fee imposed pursuant to NRS 482.3764 for the support of outreach programs and services for veterans and their families, the fee for:~~

~~(a) The initial issuance of the special license plates is \$35.~~

~~(b) The annual renewal sticker is \$10.~~

~~5. If the special plates issued pursuant to this section are lost, stolen or mutilated, the owner of the vehicle may secure a set of replacement license plates from the Department for a fee of \$10. (*Deleted by amendment.*)~~

~~Sec. 54. [NRS 482.3765 is hereby amended to read as follows:~~

~~482.3765 1. A veteran [of the Armed Forces of the United States] who survived the attack on Pearl Harbor on December 7, 1941, is entitled to specially designed license plates inscribed with the words "PEARL HARBOR VETERAN" or "PEARL HARBOR SURVIVOR," at the option of the veteran, and three or four consecutive numbers.~~

~~2. Each person who qualifies for special license plates pursuant to this section may apply for not more than two sets of plates. If the person applies for a second set of plates for an additional vehicle, the second set of plates must have a different number than the first set of plates issued to the same applicant. Special license plates issued pursuant to this section may be used only on a private passenger vehicle, a noncommercial truck or a motor home.~~

~~3. The Department shall issue specially designed license plates for persons qualified pursuant to this section who submit an application on a~~

form prescribed by the Department and evidence of their status as a survivor required by the Department.

~~4. If, during a registration year, the holder of a set of special license plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall:~~

~~(a) Retain the plates and affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or~~

~~(b) Within 30 days after removing the plates from the vehicle, return them to the Department.~~

~~5. The fee for a set of special license plates issued pursuant to this section is \$25, in addition to all other applicable registration and license fees and governmental services taxes. The annual fee for a renewal sticker for a set of special license plates issued pursuant to this section is \$5. (Deleted by amendment.)~~

Sec. 55. [NRS 482.377 is hereby amended to read as follows:

~~482.377 1. A veteran [of the Armed Forces of the United States] who, as a result of his service:~~

~~(a) Has suffered a 100 percent service connected disability and who receives compensation from the United States for his disability is entitled to specially designed license plates inscribed with the words "DISABLED VETERAN" or "VETERAN WHO IS DISABLED," at the option of the veteran, and three or four consecutive numbers.~~

~~(b) Has been captured and held prisoner by a military force of a foreign nation is entitled to specially designed license plates inscribed with the words "EX PRISONER OF WAR" and three or four consecutive numbers.~~

~~2. Each person who qualifies for special license plates pursuant to this section may apply for not more than two sets of plates. If the person applies for a second set of plates for an additional vehicle, the second set of plates must have a different number than the first set of plates issued to the same applicant. Special license plates issued pursuant to this section may be used only on a private passenger vehicle, a noncommercial truck or a motor home.~~

~~3. The Department shall issue specially designed license plates for persons qualified pursuant to this section who submit an application on a form prescribed by the Department and evidence of disability or former imprisonment required by the Department.~~

~~4. A vehicle on which license plates issued by the Department pursuant to this section are displayed is exempt from the payment of any parking fees, including those collected through parking meters, charged by the State or any political subdivision or other public body within the State, other than the United States.~~

~~5. If, during a registration year, the holder of a set of special license plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall:~~

~~(a) Retain the plates and affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or~~

~~(b) Within 30 days after removing the plates from the vehicle, return them to the Department.~~

~~6. As used in this section, "service-connected disability" means a disability that was incurred or aggravated in the line of duty in the Armed Forces of the United States. (Deleted by amendment.)~~

Sec. 56. ~~[NRS 482.3775 is hereby amended to read as follows:~~

~~482.3775 1. A veteran [of the Armed Forces of the United States] who was awarded the Purple Heart is entitled to specially designed license plates which indicate that he is a recipient of the Purple Heart.~~

~~2. Each person who qualifies for special license plates pursuant to this section may apply for not more than two sets of plates. If the person applies for a second set of plates for an additional vehicle, the second set of plates must have a different number than the first set of plates issued to the same applicant. Special license plates issued pursuant to this section may be used only on a private passenger vehicle, a noncommercial truck or a motor home.~~

~~3. The Department shall issue specially designed license plates for any person qualified pursuant to this section who submits an application on a form prescribed by the Department and evidence of his status as a recipient of the Purple Heart as required by the Department. The Department may designate any appropriate colors for the special plates.~~

~~4. If, during a registration year, the holder of a set of special license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder shall:~~

~~(a) Retain the plates and affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or~~

~~(b) Within 30 days after removing the plates from the vehicle, return them to the Department.~~

~~5. Except as otherwise provided in this subsection, no fee in addition to the applicable registration and license fees and governmental services taxes may be charged for the issuance or renewal of a set of special license plates pursuant to this section. If the special plates issued pursuant to this section are lost, stolen or mutilated, the owner of the vehicle may secure a set of replacement license plates from the Department for a fee of \$5. (Deleted by amendment.)~~

Sec. 57. NRS 483.240 is hereby amended to read as follows:

483.240 The following persons are exempt from ~~[license]~~ licensure under the provisions of NRS 483.010 to 483.630, inclusive:

1. Any person while driving a motor vehicle in the service of the Armed Forces ~~[ ]~~ of the United States.

2. Any person while driving any road machine, farm tractor or implement of husbandry temporarily operated or moved on a highway.

3. ~~{A}~~ Any nonresident who is at least 16 years of age and who has in his immediate possession a valid license issued to him in his home state or country ~~{may drive}~~, while driving a motor vehicle in this State of the type or class he may operate in his home state or country.

4. Any nonresident who is at least 18 years of age ~~{,}~~ and whose home state or country does not require the licensing of drivers, ~~{may drive}~~ while driving a motor vehicle for a period of not more than 90 days in any calendar year ~~{,}~~ if the motor vehicle driven is duly registered in the home state or country of ~~{such}~~ the nonresident.

5. ~~{A}~~ Any nonresident on active duty in the Armed Forces of the United States who has a valid license issued by his home state and ~~{such}~~ the nonresident's spouse or dependent child who has a valid license issued by ~~{such}~~ that state.

6. Any person on active duty in the Armed Forces of the United States who has a valid license issued in a foreign country by the Armed Forces ~~{may drive}~~ of the United States, while driving a motor vehicle for a period of not more than 45 days ~~{from}~~ after the date of his return to the United States.

Sec. 58. ~~{NRS 483.292 is hereby amended to read as follows:}~~

~~483.292 1. When a person applies to the Department for an instruction permit or driver's license pursuant to NRS 483.290, the Department shall inquire whether the person desires to declare that he is a veteran. [of the Armed Forces of the United States.]~~

~~2. If the person desires to declare pursuant to subsection 1 that he is a veteran [of the Armed Forces of the United States, he shall], he must provide evidence satisfactory to the Department that he has been [honorably] discharged or released from the Armed Forces of the United States [.] under conditions other than dishonorable.~~

~~3. If the person declares pursuant to subsection 1 that he is a veteran, [of the Armed Forces of the United States,] the Department shall count the declaration and maintain it only numerically in a record kept by the Department for that purpose.~~

~~4. The Department shall, at least once each quarter:~~

~~(a) Compile the aggregate number of persons who have, during the immediately preceding quarter, declared pursuant to subsection 1 that they are veterans, [of the Armed Forces of the United States,] and~~

~~(b) Transmit that number to the Office of Veterans' Services to be used for statistical purposes. [Deleted by amendment.]~~

Sec. 59. NRS 483.380 is hereby amended to read as follows:

483.380 1. Except as otherwise provided in NRS 483.283, every driver's license expires as prescribed by regulation.

2. The Department shall adopt regulations prescribing when a driver's license expires. The Department may, by regulation, defer the expiration of the driver's license of a person who is on active duty in the Armed Forces of the United States upon such terms and conditions as it may prescribe. The Department may similarly defer the expiration of the license of the spouse or

dependent son or daughter of that person if the spouse or child is residing with the person.

Sec. 60. NRS 483.386 is hereby amended to read as follows:

483.386 All persons whose licenses have expired may be required by the Department, whenever good cause appears, to take all or part of the regular examinations as set forth in NRS 483.330. All persons whose licenses have expired for a period of 30 days or more shall pay to the Department the penalty provided in NRS 483.410 in addition to the cost of renewing the license, except that the following persons are exempt from this penalty:

1. A person who has not driven a motor vehicle after the expiration of his Nevada driver's license and who submits an affidavit stating that fact;
2. A person renewing an expired Nevada driver's license who possesses a valid driver's license from another jurisdiction;
3. A person whose Nevada driver's license expires during a period of suspension if he completes a renewal application within 30 days after the date of eligibility for renewal; and
4. A person whose Nevada driver's license expires while he is on active duty ~~[with any branch of]~~ in the Armed Forces ~~[ ]~~ of the United States, if he completes a renewal application within 30 days after his discharge.

Sec. 61. NRS 483.850 is hereby amended to read as follows:

483.850 1. Every application for an identification card must be made upon a form provided by the Department and include, without limitation:

- (a) The applicant's full legal name.
- (b) His date of birth.
- (c) His state of legal residence.
- (d) His current address of principal residence and mailing address, if different from his address of principal residence, in this State, unless the applicant is on active duty in the ~~[military service]~~ Armed Forces of the United States.
- (e) A statement from:
  - (1) A resident stating that he does not hold a valid driver's license or identification card from any state or jurisdiction; or
  - (2) A seasonal resident stating that he does not hold a valid Nevada driver's license.

2. When the form is completed, the applicant must sign the form and verify the contents before a person authorized to administer oaths.

3. An applicant who has been issued a social security number must provide to the Department for inspection:

- (a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or
- (b) Other proof acceptable to the Department bearing the social security number of the applicant, including, without limitation, records of employment or federal income tax returns.

4. At the time of applying for an identification card, an applicant may, if eligible, register to vote pursuant to NRS 293.524.

5. A person who possesses a driver's license or identification card issued by another state or jurisdiction who wishes to apply for an identification card pursuant to this section shall surrender to the Department the driver's license or identification card issued by the other state or jurisdiction at the time he applies for an identification card pursuant to this section.

Sec. 62. ~~NRS 483.852 is hereby amended to read as follows:~~

~~483.852 1. When a person applies to the Department for an identification card pursuant to NRS 483.850, the Department shall inquire whether the person desires to declare that he is a veteran [of the Armed Forces of the United States.]~~

~~2. If the person desires to declare pursuant to subsection 1 that he is a veteran [of the Armed Forces of the United States, he shall], he must provide evidence satisfactory to the Department that he has been [honorably] discharged or released from the Armed Forces of the United States [.] under conditions other than dishonorable.~~

~~3. If the person declares pursuant to subsection 1 that he is a veteran, [of the Armed Forces of the United States,] the Department shall count the declaration and maintain it only numerically in a record kept by the Department for that purpose.~~

~~4. The Department shall, at least once each quarter:~~

~~(a) Compile the aggregate number of persons who have, during the immediately preceding quarter, declared pursuant to subsection 1 that they are veterans, [of the Armed Forces of the United States;] and~~

~~(b) Transmit that number to the Office of Veterans' Services to be used for statistical purposes. (Deleted by amendment.)~~

Sec. 63. NRS 484.471 is hereby amended to read as follows:

484.471 1. A procession, except a funeral procession, ~~for parade, except the forces] a parade, or a procession of the Armed Forces of the United States, [Armed Services,] the military forces of this State and the forces of the police and fire departments, must not occupy, march or proceed along any highway except in accordance with the permit issued by the proper public authority.~~

2. A sound truck or other vehicle equipped with an amplifier or loudspeaker must not be driven upon any highway for the purpose of selling, offering for sale or advertising in any fashion except in accordance with a permit issued by the proper public authority.

3. An oversized or overweight vehicle or equipment must not be driven, occupy or proceed upon any highway except in accordance with a permit issued by the Department of Transportation.

4. The Department of Transportation, upon request, shall notify a city or county immediately after a permit has been issued for an oversized or overweight vehicle or equipment to be driven, occupy or proceed upon any highway under the jurisdiction of that city or county.

5. Nothing in this chapter prohibits a city or county affected by the issuance of permits pursuant to this section from:

(a) Recommending to the Department of Transportation the establishment of certain routes by which oversized or overweight vehicles may proceed through the city or county and any modifications to those routes; or

(b) Notifying the Department of Transportation if the issuance of a permit authorizing an oversized or overweight vehicle or equipment to be driven, occupy or proceed upon a certain highway would negatively impact traffic safety or flow of traffic due to unique conditions in the city or county.

6. The Department of Transportation shall adopt regulations regarding the issuance of permits for oversized or overweight vehicles or equipment to be driven, occupy or proceed upon any highway that is under the jurisdiction of a county whose population is less than 400,000, or a city in a county whose population is less than 400,000. The regulations may limit the movement of oversized or overweight vehicles to certain:

- (a) Routes;
- (b) Hours of the day; or
- (c) Days of the week,

↳ to ensure public safety.

7. Any person who violates any provision of this section is guilty of a misdemeanor.

Sec. 64. ~~NRS 502.072 is hereby amended to read as follows:~~

~~502.072 1. The Department shall issue without charge any license authorized under the provisions of this chapter, upon satisfactory proof of the requisite facts to any [bona fide resident of the State of Nevada] veteran who has incurred a service connected disability which is considered to be 50 percent or more by the Department of Veterans Affairs. [and has received upon severance from service an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States.]~~

~~2. As used in this section, "service connected disability" means a disability that was incurred or aggravated in the line of duty in the Armed Forces of the United States.] (Deleted by amendment.)~~

Sec. 65. NRS 503.165 is hereby amended to read as follows:

503.165 1. It is unlawful to carry a loaded rifle or loaded shotgun in or on any vehicle which is standing on or along, or is being driven on or along, any public highway or any other way open to the public.

2. A rifle or shotgun is loaded, for the purposes of this section, when there is an unexpended cartridge or shell in the firing chamber, but not when the only cartridges or shells are in the magazine.

3. The provisions of this section do not apply to paraplegics, persons with one or both legs amputated or who have suffered a paralysis of one or both legs which severely impedes walking, or peace officers and members of the Armed Forces of ~~[this State or]~~ the United States *or the Nevada National Guard* while on duty or going to or returning from duty.

Sec. 66. NRS 574.280 is hereby amended to read as follows:

574.280 "Kennel" means a place where at least 10 dogs of not less than 6 months of age are kept, harbored or maintained for:

1. Boarding;
2. Training; or
3. Breeding for sale to a retailer or dealer.

↪ For the purposes of this section, spayed or neutered dogs, dogs used by or being trained for use by the Armed Forces ~~of the United States~~, police officers, search and rescue teams or other similar organizations, dogs used in farming or ranching, and dogs used by or being trained for use by persons with disabilities, including, but not limited to, dogs used to assist persons in wheelchairs, must not be counted when determining the number of dogs that are being kept, harbored or maintained.

Sec. 67. ~~NRS 604A.420 is hereby amended to read as follows:~~

~~604A.420 Notwithstanding any other provision of law:~~

~~1. If a customer is a member of the military, a licensee shall:~~

~~(a) Honor the terms of any repayment plan between the licensee and customer, including, without limitation, any repayment plan negotiated through military counselors or third party credit counselors.~~

~~(b) Honor any proclamation by a base commander that a certain branch location of the licensee is off limits to members of the military and their spouses.~~

~~2. If a customer is a member of the military, a licensee shall not:~~

~~(a) Garnish or threaten to garnish any wages or salary of the customer or his spouse; or~~

~~(b) Contact or threaten to contact the military chain of command of a customer in an effort to collect the loan.~~

~~3. If a customer is a member of the military and is deployed to a combat or combat supporting position, a licensee shall not engage in any collection activity against the customer or his spouse.~~

~~4. As used in this section, "military" means the Armed Forces of the United States [a reserve component thereof] or the Nevada National Guard.]~~  
~~(Deleted by amendment.)~~

Sec. 68. NRS 608.0165 is hereby amended to read as follows:

608.0165 1. Except as otherwise provided in this section, wages or compensation paid to an employee whose duties include the manufacture of an explosive, or the use, processing, handling, on-site movement or storage of an explosive that is related to its manufacture, must be based solely on the number of hours the employee works. The provisions of this subsection do not apply to persons employed in the mining industry.

2. Any person who violates the provisions of subsection 1:

(a) For the first violation, shall be punished by a fine of not less than \$10,000 ~~nor~~ or more than \$20,000.

(b) For the second or any subsequent violation, shall be punished by a fine of not less than \$20,000 ~~nor~~ or more than \$50,000.

3. Except as otherwise provided in subsection 4, as used in this section, "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers,

detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonation of the compound, mixture or device or any part thereof may cause an explosion.

4. For the purposes of this section, an explosive does not include:

- (a) Ammunition for small arms, or any component thereof;
- (b) Black powder commercially manufactured in quantities that do not exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers that are intended to be used solely for sporting, recreation or cultural purposes:

(1) In an antique firearm, as that term is defined in 18 U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or

(2) In an antique device which is exempted from the definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4), as that section existed on January 1, 1999; or

(c) Any explosive that is manufactured under the regulation of a military department of the United States, or that is distributed to, or possessed or stored by, the ~~{military or naval service}~~ *Armed Forces of the United States* or any other agency of the United States, or an arsenal, a navy yard, a depot or any other establishment owned by or operated on behalf of the United States.

Sec. 69. NRS 612.115 is hereby amended to read as follows:

612.115 1. "Employment" includes service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions which is owned by this State or one or more of its political subdivisions alone or in conjunction with one or more other states or political subdivisions thereof, which is excluded from the definition of "employment" by the provisions of 26 U.S.C. § 3306(c)(7), except service:

- (a) As an elected official;
- (b) As a member of a legislative body, or a member of the judiciary, of the State or a political subdivision;
- (c) As a member of the Nevada National ~~{Guard or Nevada Air National}~~ Guard;
- (d) In employment serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;
- (e) In a position which, pursuant to state law, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or
- (f) By an inmate of a custodial or penal institution.

2. Every department of this State, and every political subdivision thereof, and each of the instrumentalities of this State and its political subdivisions, shall become an employer as provided in this chapter.

3. "Employment" does not include service performed:

(a) In a facility conducted for the purpose of carrying out a program of rehabilitation for persons whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for persons who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by a person receiving such rehabilitation or remunerative work; or

(b) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by a person receiving such work relief or work training.

Sec. 70. NRS 612.377 is hereby amended to read as follows:

612.377 As used in NRS 612.377 to 612.3786, inclusive, unless the context clearly requires otherwise:

1. "Extended benefit period" means a period which begins with the third week after a week for which there is a Nevada "on" indicator and ends with the third week after the first week for which there is a Nevada "off" indicator or the 13th consecutive week after it began, except that no extended benefit period may begin by reason of a Nevada "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect for Nevada.

2. There is a "Nevada 'on' indicator" for a week if the Administrator determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in Nevada, ~~{}~~ not seasonally adjusted, ~~{}~~ under NRS 612.377 to 612.3786, inclusive:

(a) Equalled or exceeded 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding 2 calendar years and equalled or exceeded 5 percent; or

(b) Equalled or exceeded 6 percent.

3. There is a "Nevada 'off' indicator" for a week if the Administrator determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in Nevada, ~~{}~~ not seasonally adjusted: ~~{}~~

(a) Was less than 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; or

(b) Was less than 5 percent.

4. "Rate of insured unemployment," for purposes of subsections 2 and 3, means the percentage derived by dividing the average weekly number of persons filing claims in this State for the weeks of unemployment for the

most recent period of 13 consecutive weeks, as determined by the Administrator on the basis of his reports to the Secretary of Labor using the average monthly employment covered under this chapter as determined by the Administrator and recorded in the records of the Division for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

5. "Regular benefits" means benefits payable to a person under this chapter or under any other state law, ~~{}~~ including benefits payable to federal civilian employees and to ~~{ex-servicemen}~~ *veterans* pursuant to 5 U.S.C. §§ 8501 et seq., ~~{}~~ other than extended benefits.

6. "Extended benefits" means benefits, ~~{}~~ including benefits payable to federal civilian employees and to ~~{ex-servicemen}~~ *veterans* pursuant to 5 U.S.C. §§ 8501 et seq., ~~{}~~ payable to a person under the provisions of NRS 612.377 to 612.3786, inclusive, for the weeks of unemployment in his eligibility period.

7. "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law. Any person who is entitled to both additional and extended benefits for the same week must be given the choice of electing which type of benefit to claim regardless of whether his rights to additional and extended benefits arise under the law of the same state or different states.

8. "Eligibility period" of a person means the period consisting of the weeks in his benefit year under this chapter which begin in an extended benefit period and, if his benefit year ends within the extended benefit period, any weeks thereafter which begin in that period.

9. "Exhaustee" means a person who, with respect to any week of unemployment in his eligibility period:

(a) Has received, before that week, all of the regular, seasonal or nonseasonal benefits that were available to him under this chapter or any other state law, ~~{}~~ including augmented weekly benefits for dependents and benefits payable to federal civilian employees and ~~{ex-servicemen}~~ *veterans* under 5 U.S.C. §§ 8501 et seq., ~~{}~~ in his current benefit year which includes that week, except that, for the purposes of this paragraph, a person shall be deemed to have received all of the regular benefits that were available to him, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) His benefit year having expired before that week, has no, or insufficient, wages on the basis of which he could establish a new benefit year which would include that week,

➔ and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, 45 U.S.C. §§ 351 et seq., the Trade Expansion Act of 1962, 19 U.S.C. §§ 1801 et seq., the Automotive Products Trade Act of 1965, 19 U.S.C. §§ 2001 et seq. and such

other federal laws as are specified in regulations issued by the Secretary of Labor, and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada. If he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under that law he is considered an exhaustee.

10. "State law" means the unemployment insurance law of any state, approved by the Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

Sec. 71. ~~[NRS 618.383 is hereby amended to read as follows:~~

~~618.383 1. Except as otherwise provided in subsections 8 and 9, an employer shall establish a written safety program and carry out the requirements of the program within 90 days after it is established.~~

~~2. The written safety program must include:~~

~~(a) The establishment of a training program for employees concerning safety in the workplace, particularly in those areas where there have been recurring injuries or where explosives are manufactured.~~

~~(b) If an employer has more than 25 employees, or if an employer's employees are engaged in the manufacture of explosives, the establishment of a safety committee. The safety committee must include representatives of employees. If the employees are represented by a labor organization, the representatives of employees must be selected by the employees and not appointed by the employer.~~

~~3. A representative of employees while engaging in the business of a safety committee, including attendance at meetings, authorized inspections or any other activity of the committee, must be paid by his employer as if that employee were engaged in his usual work activities.~~

~~4. The written safety program and all training programs required pursuant to this section must be conducted and made available in a language and format that is understandable to each employee.~~

~~5. The Administrator of the Division shall adopt regulations establishing the minimum requirements for a written safety program.~~

~~6. The Administrator of the Division shall develop and provide each employer with a written guide for establishing a written safety program.~~

~~7. An employer who contracts with a temporary employment service shall provide specialized training concerning safety for the employees of the service before they begin work at each site or as soon as possible thereafter.~~

~~8. An employer who has 10 or fewer employees is exempted from the provisions of this section unless the employer has employees engaged in the manufacture of explosives.~~

~~9. For the purposes of this section, an employer in the mining industry shall not be deemed to be a manufacturer of explosives.~~

~~10. Except as otherwise provided in subsection 11, as used in this section, "explosives" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powders, other~~

~~explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonation of the compound, mixture or device or any part thereof may cause an explosion.~~

~~11. For the purposes of this section, an explosive does not include:~~

~~(a) Ammunition for small arms, or any component thereof;~~

~~(b) Black powder commercially manufactured in quantities that do not exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers that are intended to be used solely for sporting, recreation or cultural purposes;~~

~~(1) In an antique firearm, as that term is defined in 18 U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or~~

~~(2) In an antique device which is exempted from the definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4), as that section existed on January 1, 1999; or~~

~~(c) Any explosive that is manufactured under the regulation of a military department of the United States, or that is distributed to, or possessed or stored by, the [military or naval service] *Armed Forces of the United States* or any other agency of the United States, or an arsenal, a navy yard, a depot or any other establishment owned by or operated on behalf of the United States. *(Deleted by amendment.)*~~

Sec. 72. ~~[NRS 618.890 is hereby amended to read as follows:~~

~~618.890 1. The Division shall adopt regulations establishing standards and procedures for places of employment where explosives are manufactured, or where an explosive is used, processed, handled, moved on-site or stored in relation to its manufacture, including, without limitation, regulations requiring the:~~

~~(a) Establishment and implementation of safety plans and procedures;~~

~~(b) Establishment of safety zones at or around such places of employment;~~

~~(c) Annual certification of such places of employment;~~

~~(d) Annual certification of trainers, production managers, supervisors and other persons designated by an employer to provide an annual training and testing program for employees; and~~

~~(e) Establishment and implementation of programs for the annual training and testing of employees who are engaged in the manufacture of an explosive, or the use, processing, handling, on-site movement or storage of an explosive that is related to its manufacture, that will be conducted by a trainer, production manager, supervisor or any other person certified pursuant to paragraph (d).~~

~~2. If the standards and procedures adopted pursuant to this section conflict with any ordinances of a local governing body regulating explosives, the more stringent standard applies.~~

~~3. Except as otherwise provided in subsection 2, compliance with an ordinance of a local governing body regulating explosives does not excuse~~

~~any person from complying with the standards and procedures adopted by the Division pursuant to this section.~~

~~4. Each employer engaged in the manufacture of explosives shall provide to each of his employees, who in the course of their employment are directly involved in the manufacture of explosives, or the handling of an explosive or any hazardous component thereof, an annual training and testing program that has been approved by the Division in accordance with subsection 1. The annual training must be conducted by a trainer, production manager, supervisor or other person certified by the Division to provide such training. An employer shall not allow an employee to engage in employment that requires the employee to be directly involved in the manufacture of explosives, or the handling of an explosive or any hazardous component thereof, until the employee has completed the applicable training and testing program required pursuant to this subsection. Any violation of this subsection by an employer constitutes a serious violation which is subject to the provisions of NRS 618.645.~~

~~5. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.~~

~~6. Except as otherwise provided in subsection 7, as used in this section, "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion, or detonation of the compound, mixture or device or any part thereof may cause an explosion.~~

~~7. For the purposes of this section, an explosive does not include:~~

~~(a) Ammunition for small arms, or any component thereof;~~

~~(b) Black powder commercially manufactured in quantities that do not exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers that are intended to be used solely for sporting, recreation or cultural purposes;~~

~~(1) In an antique firearm, as that term is defined in 18 U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or~~

~~(2) In an antique device which is exempted from the definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4), as that section existed on January 1, 1999; or~~

~~(c) Any explosive that is manufactured under the regulation of a military department of the United States, or that is distributed to, or possessed or stored by, the [military or naval service] *Armed Forces of the United States* or any other agency of the United States, or an arsenal, a navy yard, a depot or any other establishment owned by or operated on behalf of the United States. *(Deleted by amendment.)*~~

Sec. 73. ~~[NRS 618.898 is hereby amended to read as follows:~~

~~618.898 1. No owner or operator of a place of employment may commence the construction of, substantially alter the construction of, or modify any major process used to protect the lives, safety and health of employees at a place of employment where an explosive is manufactured, or used, processed, handled, moved on site or stored in relation to its manufacture, unless he first obtains a permit therefor from the Division. Before issuing any permit, the Division shall consult with the Division of Environmental Protection of the State Department of Conservation and Natural Resources.~~

~~2. An application for such a permit must be submitted on a form prescribed by the Division.~~

~~3. The Division may require the applicant to comply with requirements that it establishes by regulation before issuing such a permit.~~

~~4. The Division may charge and collect a fee for the issuance of such a permit.~~

~~5. The Division shall adopt such regulations as are necessary to carry out the provisions of this section.~~

~~6. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.~~

~~7. Except as otherwise provided in subsection 8, as used in this section, "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion, or detonation of the compound, mixture or device or any part thereof may cause an explosion.~~

~~8. For the purposes of this section, an explosive does not include:~~

~~(a) Ammunition for small arms, or any component thereof;~~

~~(b) Black powder commercially manufactured in quantities that do not exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers that are intended to be used solely for sporting, recreation or cultural purposes:~~

~~(1) In an antique firearm, as that term is defined in 18 U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or~~

~~(2) In an antique device which is exempted from the definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4), as that section existed on January 1, 1999; or~~

~~(c) Any explosive that is manufactured under the regulation of a military department of the United States, or that is distributed to, or possessed or stored by, the [military or naval service] *Armed Forces of the United States* or any other agency of the United States, or an arsenal, a navy yard, a depot or any other establishment owned by or operated on behalf of the United States. *(Deleted by amendment.)*~~

Sec. 74. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or practitioner of respiratory care of the Armed ~~Services~~ *Forces of the United States* or a medical officer or practitioner of respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State ~~+~~ and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;

(i) A person who is employed by a physician and provides respiratory care under the supervision of that physician;

(j) The maintenance of medical equipment for respiratory care that is not attached to a patient; and

(k) A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if

the person is trained to provide ~~such~~ those services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 75. NRS 630.301 is hereby amended to read as follows:

630.301 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Conviction of a felony relating to the practice of medicine or the ability to practice medicine. A plea of nolo contendere is a conviction for the purposes of this subsection.

2. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 ~~+~~ or 616D.350 to 616D.440, inclusive.

3. Any disciplinary action, including, without limitation, the revocation, suspension, modification or limitation of a license to practice any type of medicine, taken by another state, the Federal Government, a foreign country or any other jurisdiction or the surrender of the license or discontinuing the practice of medicine while under investigation by any licensing authority, a medical facility, a branch of the Armed ~~Services~~ Forces of the United States, an insurance company, an agency of the Federal Government or an employer.

4. Malpractice, which may be evidenced by claims settled against a practitioner, but only if the malpractice is established by a preponderance of the evidence.

5. The engaging by a practitioner in any sexual activity with a patient who is currently being treated by the practitioner.

6. Disruptive behavior with physicians, hospital personnel, patients, members of the families of patients or any other persons if the behavior interferes with patient care or has an adverse impact on the quality of care rendered to a patient.

7. The engaging in conduct that violates the trust of a patient and exploits the relationship between the physician and the patient for financial or other personal gain.

8. The failure to offer appropriate procedures or studies, to protest inappropriate denials by organizations for managed care, to provide necessary services or to refer a patient to an appropriate provider, when the failure occurs with the intent of positively influencing the financial well-being of the practitioner or an insurer.

9. The engaging in conduct that brings the medical profession into disrepute, including, without limitation, conduct that violates any provision of a code of ethics adopted by the Board by regulation based on a national code of ethics.

10. The engaging in sexual contact with the surrogate of a patient or other key persons related to a patient, including, without limitation, a spouse, parent or legal guardian, which exploits the relationship between the physician and the patient in a sexual manner.

11. Conviction of:

- (a) Murder, voluntary manslaughter or mayhem;
- (b) Any felony involving the use of a firearm or other deadly weapon;
- (c) Assault with intent to kill or to commit sexual assault or mayhem;
- (d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
- (e) Abuse or neglect of a child or contributory delinquency;
- (f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS; or
- (g) Any offense involving moral turpitude.

Sec. 76. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

- (a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.
- (b) A medical officer of the Armed ~~Services~~ *Forces of the United States* or a medical officer of any division or department of the United States in the discharge of his official duties.
- (c) Licensed or certified nurses in the discharge of their duties as nurses.
- (d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State ~~to~~ and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

- (a) Gratuitous services of a person in case of emergency.
- (b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 77. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

- (a) The practice of medicine pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed ~~[Services]~~ *Forces of the United States* or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State ~~[,]~~ and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 78. ~~[NRS 645.600 is hereby amended to read as follows:~~

~~645.600 1. Any licensee under the provisions of this chapter who [shall be] is called into [the] military service with the Armed Forces of the United States [shall,] must, at his request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of [such] that military service and for a period of 6 months after discharge therefrom.~~

~~2. At any time within 6 months after termination of [such] that service, providing the provisions of subsection 1 are complied with, the licensee may be reinstated, without examination, to active status in the appropriate classification which the licensee left upon entry into the military service, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645.830, and the licensee [shall not be] is not required to make payment of the license fee for the current year.~~

~~3. Any licensee seeking to qualify for reinstatement, as provided in subsections 1 and 2, shall present [a certified copy of his honorable discharge or certificate of satisfactory service] to the Real Estate Division [.] acceptable proof that he was discharged or released from the Armed Forces of the United States under conditions other than dishonorable. (Deleted by amendment.)~~

Sec. 79. ~~[NRS 645B.490 is hereby amended to read as follows:~~

~~645B.490 1. Any mortgage broker or mortgage agent licensed under the provisions of this chapter who is called into [the] military service with the Armed Forces of the United States [shall,] must, at his request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of [such] that military service and for a period of 6 months after discharge therefrom.~~

~~2. At any time within 6 months after termination of [such] that service, if the mortgage broker or mortgage agent complies with the provisions of subsection 1, the mortgage broker or mortgage agent may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or~~

~~645B.430, and the mortgage broker or mortgage agent is not required to make payment of the renewal fee for the current year.~~

~~3. Any mortgage broker or mortgage agent seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present [a certified copy of his honorable discharge or certificate of satisfactory service] to the Commissioner [.] acceptable proof that he was discharged or released from the Armed Forces of the United States under conditions other than dishonorable. (Deleted by amendment.)~~

Sec. 80. ~~[NRS 675.296 is hereby amended to read as follows:~~

~~675.296 Notwithstanding any other provision of law:~~

~~1. If a borrower is a member of the military, a licensee shall:~~

~~(a) Honor the terms of any repayment plan between the licensee and borrower, including, without limitation, any repayment plan negotiated through military counselors or third party credit counselors.~~

~~(b) Honor any proclamation by a base commander that a certain branch location of the licensee is off limits to members of the military and their spouses.~~

~~2. If a borrower is a member of the military, a licensee shall not:~~

~~(a) Garnish or threaten to garnish any wages or salary of the borrower or his spouse; or~~

~~(b) Contact or threaten to contact the military chain of command of a borrower in an effort to collect the loan.~~

~~3. If a borrower is a member of the military and is deployed to a combat or combat supporting position, a licensee shall not engage in any collection activity against the borrower or his spouse.~~

~~4. As used in this section, "military" means the Armed Forces of the United States [., a reserve component thereof] or the Nevada National Guard. (Deleted by amendment.)~~

Sec. 81. NRS 697.177 is hereby amended to read as follows:

697.177 1. Except as otherwise provided in this section, an applicant for a license as a bail enforcement agent must satisfactorily complete a basic course of training for bail enforcement agents that is approved by the Commissioner.

2. The basic course of training must consist of at least 80 hours of training which includes instruction in:

(a) The following areas of the law:

(1) Constitutional law;

(2) Procedures for arresting defendants and surrendering defendants into custody;

(3) Civil liability;

(4) The civil rights of persons who are detained in custody;

(5) The use of force; and

(6) The history and principles of bail;

(b) Procedures for field operations, including, without limitation:

(1) Safety and survival techniques;

- (2) Searching buildings;
- (3) Handling persons with mental illness or who are under the influence of alcohol or a controlled substance; and
- (4) The care and custody of prisoners;
- (c) The skills required of bail enforcement agents, including, without limitation:
  - (1) Writing reports, completing forms and procedures for exoneration;
  - (2) Methods of arrest;
  - (3) Nonlethal weapons;
  - (4) The retention of weapons;
  - (5) Qualifications for the use of firearms; and
  - (6) Defensive tactics;
- (d) Principles of investigation, including, without limitation:
  - (1) The basic principles of locating defendants who have not complied with the terms and conditions established by a court for their release from custody or the terms and conditions of a contract entered into with a surety; and
  - (2) Ethics; and
- (e) The following subjects:
  - (1) Demeanor in a courtroom;
  - (2) First aid used in emergencies; and
  - (3) Cardiopulmonary resuscitation.

↪ An applicant may complete the 80 hours of training required by this subsection by completing 16 hours of training each weekend for 5 weeks.

3. In lieu of completing the basic course of training required by subsection 1, an applicant may submit proof to the Commissioner that he has completed a course of training required by a municipal, state or federal law enforcement agency or a branch of the Armed Forces *of the United States* to carry out the duties of a peace officer.

4. An applicant for a license as a bail enforcement agent must complete the training required by this section within 9 months after the date he is employed by a bail agent as a bail enforcement agent. The Commissioner shall issue a temporary license to an applicant who has not completed the training if he is otherwise qualified to be issued a license as a bail enforcement agent. The temporary license:

- (a) Authorizes the person to whom it is issued to act as a bail enforcement agent while employed by a licensed bail agent.
- (b) Is valid for 9 months or until the person to whom it is issued completes the training required by this section, whichever occurs first.
- (c) May not be renewed.

Sec. 82. ~~[NRS 315.300 is hereby repealed.]~~ (*Deleted by amendment.*)

~~TEXT OF REPEALED SECTION~~

~~315.300 "Veteran" and "serviceman" defined. "Veteran" or "serviceman" means a person who has served in the Armed Forces of the United States at any time.~~

~~1. On or after April 6, 1917, and prior to November 11, 1918;  
 2. On or after September 16, 1940, and prior to July 26, 1947;  
 3. On or after June 27, 1950, and prior to January 31, 1955; and  
 4. On or after August 5, 1964, and prior to such date thereafter as shall be determined by Presidential proclamation or concurrent resolution of the Congress as the end of the Vietnam era,  
 and, in the case of a veteran, has been discharged or released therefrom under conditions other than dishonorable, or in the case of a serviceman, is presently in the Armed Forces of the United States.~~

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 301 to Senate Bill No. 71 expands certain eligibility for benefits that previously only applied to veterans that served on active duty during certain wars to apply for veterans with five years of creditable service who were honorably discharged or released from active duty. In addition, certain eligibility is expanded to apply to veterans who served on active duty during a period of war as defined by federal law.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Wiener moved that Senate Bill No. 71 be rereferred to the Committee on Finance upon from reprint.

Motion carried.

Senate Bill No. 132.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 394.

"SUMMARY—Revises provisions governing the treatment of animals. (BDR 50-369)"

"AN ACT relating to animals; prohibiting a person from restraining a dog in a certain manner; setting forth requirements for using a pen or other outdoor enclosure to maintain a dog; requiring the state emergency management plan and certain plans for emergency operations to include provisions concerning the evacuation, transportation and sheltering of service animals during a disaster or emergency; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person from depriving an animal of necessary food or drink or committing any other act of cruelty against an animal. (NRS 574.100) Section 1 of this bill prohibits a person from ~~tethering, chaining, tying or otherwise~~ restraining a dog : (1) using a tether, chain, tie, trolley or pulley system or other device that is less than 12 feet in length or fails to comply with certain other requirements concerning the movement of the dog; (2) using a prong, pinch or choke collar or similar device; or (3) for more than 14 hours during a 24-hour period. ~~for from placing a dog in~~

~~and~~ *Section 1 also provides that any pen or other outdoor enclosure ~~for more than 9 hours during a 24-hour period unless~~ that is used to maintain a dog must be appropriate for the size and breed of the dog ~~weighs a specified amount and the enclosure is a certain size.~~ and may be used by a person whose property is of insufficient size to ensure compliance with the requirements for chaining or tethering the dog on the property.* Section 1 exempts from this prohibition a dog that is: (1) being treated by a veterinarian; (2) being used for hunting or being trained to hunt; (3) participating in a dog show; (4) being kept in a shelter or boarding facility or temporarily in a camping area; (5) temporarily being cared for during a rescue operation; ~~for~~ (6) being used as part of an agricultural operation ~~for~~; ~~or~~ (7) engaged in a temporary task or activity for not more than 1 hour with a person having custody or control of the dog.

Existing law authorizes the Governor, in carrying out the provisions of chapter 414 of NRS, to prepare a comprehensive state emergency management plan. (NRS 414.060) Existing law also requires the Chief of the Division of Emergency Management of the Department of Public Safety to prepare state and local governmental agencies to be capable of responding appropriately if a disaster or emergency occurs. In carrying out this duty, the Chief may encourage state and local agencies to adopt plans for emergency operations. (NRS 414.040) Section 2 of this bill requires the state emergency management plan prepared by the Governor and each plan for emergency operations adopted by a state or local governmental agency to include provisions ensuring that, to the extent practicable, a person with a disability who uses a service animal is evacuated, transported and sheltered together with the service animal during a disaster or emergency.

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

Section 1. NRS 574.100 is hereby amended to read as follows:

574.100 1. A person shall not:

- (a) Overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to himself or to another;
- (b) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;
- (c) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed ~~for~~ or to be deprived of necessary food or drink;
- (d) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or
- (e) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. *Except as otherwise provided in ~~subsection~~ subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not ~~for~~*

~~(a) Except as otherwise provided in paragraph (b), tether, chain, tie or otherwise~~ restrain a dog:

~~[(1)]~~

(a) Using a tether, chain, tie, trolley or pulley system or other device that ~~is less~~:

(1) Is less than 12 feet in length; ~~or~~

(2) Fails to allow the dog to move less than 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than ~~9~~ 14 hours during a 24-hour period. ~~or~~

~~(b) Place a dog in a pen or other outdoor enclosure for more than 9 hours during a 24 hour period unless the dog:~~

~~(1) Weighs less than 20 pounds and the pen is at least 60 square feet in area;~~

~~(2) Weighs 20 pounds or more but less than 60 pounds and the pen is at least 120 square feet in area;~~

~~(3) Weighs 60 pounds or more but less than 100 pounds and the pen is at least 160 square feet in area; or~~

~~(4) Weighs 100 pounds or more and the pen is at least 200 square feet in area.~~

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of ~~subsection~~ subsections 2 and 3 do not apply to a dog that is:

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of his practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes; ~~or~~

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity

that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry ~~1~~; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

~~4.1~~ 5. A person who violates subsection 1 ~~1~~, 2 or ~~2.1~~ 3:

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

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

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

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

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

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

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

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

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

~~3.1~~ ~~5.1~~ 6. In addition to any other fine or penalty provided in subsection ~~2.1~~ ~~4.1~~ 5, a court shall order a person convicted of violating subsection 1 2 or ~~2.1~~ 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1 2 or ~~2.1~~ 3, including, without limitation, money expended for veterinary treatment, feed and housing.

~~4.1~~ ~~6.1~~ 7. The court may order the person convicted of violating subsection 1 2 or ~~2.1~~ 3 to surrender ownership or possession of the mistreated animal.

~~5.1~~ ~~7.1~~ 8. The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

Sec. 2. Chapter 414 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The state emergency management plan prepared pursuant to NRS 414.060 and each plan for emergency operations specified in paragraph (b) of subsection 4 of NRS 414.040 that is adopted by a state or local governmental agency must include provisions ensuring that, to the extent practicable, a person with a disability who uses a service animal is evacuated, transported and sheltered together with the service animal during a disaster or emergency.*

2. *As used in this section:*

(a) *"Disability" has the meaning ascribed to it in NRS 426.068.*

(b) *"Service animal" has the meaning ascribed to it in NRS 426.097.*

Senator Parks moved the adoption of the amendment.

Remarks by Senators Parks, Raggio and Amodei.

Senator Parks requested that the following remarks be entered in the Journal.

SENATOR PARKS:

This amendment does numerous things. It further defines a 12-foot tether. It extends hours for constant chaining of dogs from 9 to 14 hours. It changes language referring to penning dogs to allow an outdoor enclosure that is appropriate for the size and breed of the dog, and it adds an exemption for temporary tasks.

SENATOR RAGGIO:

Thank you, Mr. President. I did not hear any of the testimony for this bill. As I look over the amendment, it appears to me that the device known as a choke collar would not be allowed for any person to use on an animal. Is that correct?

SENATOR PARKS:

It states that using a choke collar is prohibited.

SENATOR RAGGIO:

That is a common device. A choke collar is a chain that is attached to a leash. Is that now, under this bill, prohibited by law?

SENATOR PARKS:

When the choke collar is on a chain and that animal is restrained by that chain they must use another type of collar so that the animal would not be able to suffocate itself by the chain and the choke collar.

SENATOR AMODEI:

The context is that the choke collar is not allowable if the animal is unattended. If you want to take your dog on a walk and use a choke collar, that is allowed.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 137.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 393.

"SUMMARY—Provides for the placement of recycling containers in certain locations. (BDR 40-741)"

"AN ACT relating to recycling; providing for the placement of recycling containers on the premises of certain apartment complexes, condominiums and the Nevada System of Higher Education and its branches and facilities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Environmental Commission is required to adopt regulations establishing minimum standards relating to the recycling of recyclable material. (NRS 444A.020) Existing law also provides for the establishment of recycling programs that do not conflict with those standards in counties and municipalities in this State. (NRS 444A.040) Section ~~3~~ 5 of this bill requires the Commission to adopt regulations establishing minimum standards for the placement of recycling containers on the premises of apartment complexes and condominiums where services for the collection of solid waste are provided. Section ~~5~~ 7 of this bill provides for the inclusion of provisions concerning such recycling containers in the recycling programs of counties and municipalities.

Existing law authorizes each board of county commissioners in this State to regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county. (NRS 244.3675) Existing law confers similar authority upon the governing body of an incorporated city in this State. (NRS 268.413) Section 11 of this bill prohibits a board of county commissioners of a county or a governing body of a city from approving, on or after October 1, 2009, any plan or revised plan for an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

Existing law ~~also~~ requires the Board of Regents of the University of Nevada to prescribe procedures for the recycling of paper and paper products used by the Nevada System of Higher Education ~~and~~ and requires the Board of Regents to pay any money received by the System for recycling those products to the State Treasurer for credit to the State General Fund. (NRS 396.437) Section ~~7~~ 14 of this bill requires the Board to prescribe procedures for the recycling of other waste materials, including, without limitation, the placement of recycling containers on the premises of the System or any of its branches or facilities where services for the collection of solid waste are provided. Section 14 also requires the money received by the System for recycling those materials to be accounted for separately and used to carry out the provisions of that section.

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

Section 1. Chapter 444A of NRS is hereby amended by adding thereto ~~in a new section to read as follows:~~ the provisions set forth as sections 2 and 3 of this act.

Sec. 2. "Apartment complex" means a building or group of buildings, each building of which is arranged in several units of connecting rooms, with each unit designed for independent housekeeping.

Sec. 3. "Condominium" has the meaning ascribed to it in NRS 117.010.

~~Sec. 2.~~ Sec. 4. NRS 444A.010 is hereby amended to read as follows:

444A.010 As used in NRS 444A.010 to 444A.080, inclusive, and ~~section 1~~ sections 2 and 3 of this act, unless the context otherwise requires, the words and terms described in NRS 444A.011 to 444A.017, inclusive, and ~~section 1~~ sections 2 and 3 of this act have the meanings ascribed to them in those sections.

~~Sec. 3.~~ Sec. 5. NRS 444A.020 is hereby amended to read as follows:

444A.020 1. The State Environmental Commission shall adopt regulations establishing minimum standards for:

(a) Separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided ~~[-]~~, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.

(b) Establishing recycling centers for the collection and disposal of recyclable material.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.

2. The regulations adopted pursuant to subsection 1 must be adopted with the goal of recycling at least 25 percent of the total solid waste generated within a municipality after the second full year following the adoption of ~~such~~ those standards.

3. The State Environmental Commission shall, by regulation, establish acceptable methods for disposing of used or waste tires.

~~Sec. 4.~~ Sec. 6. NRS 444A.030 is hereby amended to read as follows:

444A.030 1. The Division of Environmental Protection of the ~~State~~ Department ~~of Conservation and Natural Resources~~ shall, by regulation, adopt a model plan for:

(a) Separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided ~~[-]~~, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.

(b) Establishing recycling centers for the collection and disposal of recyclable material in areas where there are no centers.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.

(d) The disposal of infectious waste, hazardous waste which is not regulated pursuant to NRS 459.485 and liquid waste which is not regulated pursuant to NRS 445A.300 to 445A.730, inclusive.

2. The model plans adopted pursuant to subsection 1 must not conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020.

~~[Sec. 5.]~~ Sec. 7. NRS 444A.040 is hereby amended to read as follows:

444A.040 1. The board of county commissioners in a county whose population is 100,000 or more, or its designee, shall make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~the~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[-]~~, *including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

(d) The encouragement of businesses to reduce solid waste and to separate at the source recyclable material from other solid waste. This program must, without limitation, make information regarding solid waste reduction and recycling opportunities available to a business at the time the business applies for or renews a business license.

2. The board of county commissioners of a county whose population is 40,000 or more but less than 100,000, or its designee:

(a) May make available for use in that county a program for the separation at the source of recyclable material from other solid waste originating from ~~the~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[-]~~, *including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) Shall make available for use in that county a program for:

(1) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program established pursuant to paragraph (a).

(2) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

3. The board of county commissioners of a county whose population is less than 40,000, or its designee, may make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~the~~ residential premises and public buildings where

services for the collection of solid waste are provided ~~[ ]~~, *including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

4. Any program made available pursuant to this section:

(a) Must not:

(1) Conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020; and

(2) Become effective until approved by the Department.

(b) May be based on the model plans adopted pursuant to NRS 444A.030.

5. The governing body of a municipality may adopt and carry out within the municipality such programs made available pursuant to this section as are deemed necessary and appropriate for that municipality.

6. Any municipality may, with the approval of the governing body of an adjoining municipality, participate in any program adopted by the adjoining municipality pursuant to subsection 5.

7. Persons residing on an Indian reservation or Indian colony may participate in any program adopted pursuant to subsection 5 by a municipality in which the reservation or colony is located if the governing body of the reservation or colony adopts an ordinance requesting such participation. Upon receipt of such a request, the governing body of the municipality shall make available to the residents of the reservation or colony those programs requested.

~~[Sec. 6.]~~ *Sec. 8. NRS 444A.080 is hereby amended to read as follows:*

444A.080 1. The State Environmental Commission shall adopt regulations necessary to enforce the provisions of NRS 444A.010 to 444A.070, inclusive ~~[ ]~~, *and ~~section 11~~ sections 2 and 3 of this act.*

2. The State Environmental Commission may adopt any other regulations necessary to carry out the provisions of NRS 444A.010 to 444A.070, inclusive ~~[ ]~~, *and ~~section 11~~ sections 2 and 3 of this act.*

*Sec. 9. NRS 244.3675 is hereby amended to read as follows:*

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 11 of this act*, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as

may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

*Sec. 10. NRS 268.413 is hereby amended to read as follows:*

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, and section 11 of this act, the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, ~~these~~ those fees do not apply to the State of Nevada or the Nevada System of Higher Education.

*Sec. 11. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. On and after October 1, 2009, a governing body shall not approve any plan or revised plan for the construction of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

2. As used in this section:

(a) "Apartment complex" has the meaning ascribed to it in section 2 of this act.

(b) "Condominium" has the meaning ascribed to it in NRS 117.010.

*Sec. 12. NRS 278.010 is hereby amended to read as follows:*

278.010 As used in NRS 278.010 to 278.630, inclusive, and section 11 of this act, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

*Sec. 13. NRS 278.460 is hereby amended to read as follows:*

278.460 1. A county recorder shall not record any final map unless the map:

(a) Contains or is accompanied by the report of a title company and all the certificates of approval, conveyance and consent required by the provisions of NRS 278.374 to 278.378, inclusive, and by the provisions of any local ordinance; and

(b) Is 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 and that the full amount of any deferred property taxes for the conversion of the property from agricultural use has been paid pursuant to NRS 361A.265.

2. The provisions of NRS 278.010 to 278.630, inclusive, and section 11 of this act do not prevent the recording, pursuant to the provisions of NRS 278.010 to 278.630, inclusive, and section 11 of this act, and any

applicable local ordinances, of a map of any land which is not a subdivision, nor do NRS 278.010 to 278.630, inclusive, and section 11 of this act prohibit the recording of a map in accordance with the provisions of any statute requiring the recording of professional land surveyor's records of surveys.

3. A county recorder shall accept or refuse a final map for recordation within 10 days after its delivery to him.

4. A county recorder who records a final map pursuant to this section shall, within 7 working days after he records the final map, provide to the county assessor at no charge:

(a) A duplicate copy of the final map and any supporting documents; or

(b) Access to the digital final map and any digital supporting documents.

The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.

~~{Sec. 7.}~~ *Sec. 14.* NRS 396.437 is hereby amended to read as follows:

396.437 1. Except as otherwise provided in this section, the System shall recycle or cause to be recycled the paper and paper products it uses. This subsection does not apply to confidential documents if there is an additional cost for recycling those documents.

2. The System is not required to comply with the requirements of subsection 1 if the Board of Regents determines that the cost to recycle or cause to be recycled the paper and paper products used by the System or one of its branches or facilities is unreasonable and would place an undue burden on the operations of the System, branch or facility.

3. The Board of Regents shall adopt regulations which prescribe the procedure for the disposition of the paper and paper products to be recycled. The Board of Regents ~~{may}~~ shall prescribe ~~{a procedure}~~ *procedures* for the recycling of other waste material produced on the premises of the System, a branch or a facility ~~{-}~~, *including, without limitation, the placement of recycling containers on the premises of the System, a branch or a facility where services for the collection of solid waste are provided.*

4. Any money received by the System for recycling or causing to be recycled the paper and paper products it uses *and other waste material it produces* must be ~~{paid by the Board of Regents to the State Treasurer for credit to the State General Fund.}~~ *accounted for separately and used to carry out the provisions of this section.*

5. As used in this section:

(a) "Paper" includes newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(b) "Paper product" means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by

weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(c) "Solid waste" has the meaning ascribed to it in NRS 444.490.

~~{Sec. 8.}~~ Sec. 15. The State Environmental Commission shall, not later than October 1, 2009, in accordance with the provisions of NRS 444A.020, as amended by section ~~{3}~~ 5 of this act, adopt regulations establishing minimum standards for the placement of recycling containers on the premises of apartment complexes and condominiums where services for the collection of solid waste are provided.

~~{Sec. 9.}~~ Sec. 16. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

Senator Breedon moved the adoption of the amendment.

Remarks by Senator Breedon.

Senator Breedon requested that her remarks be entered in the Journal.

This amendment does three things. It applies the provisions of the bill requiring recycling containers to condominium complexes. It requires future apartment and condominium developments to design into their plans provisions to accommodate recycling bins. It allows all revenue generated by recycling programs at branches and facilities of the Nevada System of Higher Education to be kept by those facilities and used for recycling programs.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 182.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:  
Amendment No. 313.

"SUMMARY—Makes various changes relating to common-interest communities. (BDR 10-795)"

"AN ACT relating to common-interest communities; clarifying various provisions of existing law relating to certain definitions of terms, provisions of governing documents that violate statutory provisions, elections and the authority of an association to levy certain assessments under certain circumstances; revising certain provisions governing the authority of an association to impose fines ~~and construction penalties~~ under certain circumstances; making various other changes to the provisions governing common-interest communities; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{Section 2 of this bill provides that a member of the executive board who has a direct pecuniary interest or commitment to certain persons in a matter before the executive board and who knowingly votes on the matter is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.}~~  
Section 3 of this bill provides that a person who ~~tampers or interferes with~~ knowingly, willfully and with the intent to fraudulently alter the outcome of the election of a member to the executive board of an association engages in

certain acts pertaining to the ballot or the casting of votes in such election is guilty of a category C felony. (NRS 116.31034) Existing law prohibits a community manager, an officer or a member of the executive board from accepting or soliciting compensation that would influence him or appear to be a conflict of interest. (NRS 116.31185) Section 4 of this bill provides that a community manager or member of the executive board who asks for or receives compensation to influence his vote, opinion or action upon any official matter is guilty of a category C felony. Section 4 also provides that a person who offers or gives any gratuity, compensation or reward, or makes a promise thereof, to a community manager or member of the executive board in exchange for a vote, opinion or action on any official matter is guilty of a category C felony.

Existing law requires each agency to provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency, and the Department of Business and Industry, which includes the Real Estate Division, has accordingly adopted regulations for such petitions. (NRS 233B.120; NAC 232.020) However, the Real Estate Division has not adopted any regulations pertaining to such petitions. Section 5 of this bill enacts a specific statutory provision requiring the Real Estate Division to adopt regulations pertaining to such petitions.

Under existing law, a "common-interest community" is defined as "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." (NRS 116.021) Section 6 of this bill clarifies existing law with respect to this definition by providing explicitly that, as used in this definition, the term "real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common-interest community."

Existing law contains provisions concerning units or common elements of an association that are acquired by eminent domain. (NRS 116.1107) Section 7 of this bill clarifies that existing law does not authorize an association to exercise the power of eminent domain. Section 8 of this bill clarifies that any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of chapter 116 of NRS is superseded by the provisions of chapter 116 of NRS, regardless of whether the provision became effective before the enactment of the statutory provision being violated. (NRS 116.1206)

~~{Sections} Section 9 {and 10} of this bill {revise} revises existing law to limit an association's power {-(1)} to include certain provisions in certain contracts involving the association, {-(1)} and (2) to waive provisions of governing documents. (NRS 116.3102) {-(116.3103)}~~

Existing law authorizes an executive board to impose fines ~~and construction penalties,~~ *under certain circumstances.* (NRS ~~116.310305,~~ 116.31031) ~~Sections 11 and~~ *Section 12* of this bill ~~provide for an automatic appeal of such fines and construction penalties to the Commission for Common Interest Communities and Condominium Hotels. Section 12 also~~ limits the imposition of fines against a unit's owner for violations of the governing documents by a tenant or ~~guest,~~ *invitee* of the unit's owner.

Sections 13, 14 and 16 of this bill revise provisions relating to certain elections and meetings of an association by: (1) requiring members of the executive board to be units' owners; (2) providing that officers of an association are not required to be units' owners, unless the governing documents provide otherwise; (3) providing certain rights for candidates for election to an executive board; (4) reducing the votes necessary for removal of a member of an executive board; ~~and~~ (5) prohibiting an association from interfering with the collection of signatures for a special meeting or removal election ~~+~~ ; *and (6) providing immunity from criminal or civil liability for an association, its officers, employees and agents for the disclosure or publication of certain information pursuant to certain duties required of the association or its officers, employees and agents.* (NRS 116.31034, 116.31036, 116.3108)

Section 15 of this bill clarifies existing law concerning the respective duties of an association and the units' owners regarding the maintenance, repair and replacement of the common elements and the units. (NRS 116.3107)

Sections 17-19 of this bill revise provisions relating to board meetings and hearings by: (1) requiring that meetings of the executive board be audio recorded and available in a certain manner; (2) requiring that certain written complaints be placed on the agenda; and (3) providing due process protections to units' owners at certain hearings. (NRS 116.31083, 116.31085, 116.31087) Section 17 also revises existing law to allow public comments to be made ~~after every agenda item instead of~~ at *both* the beginning *and the end* of a meeting. (NRS 116.31083)

Existing law contains certain requirements concerning prior approval by an association before commencement of a civil action, as well as certain exceptions to obtaining such prior approval. (NRS 116.31088) Section 20 of this bill: (1) revises the period for ratification of the decision to commence certain civil actions; and (2) provides that a certain exception to the requirement of obtaining prior approval before commencing a civil action does not apply to an action for a constructional defect.

Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151,

116.31152) Section 21 of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves.

Section 22 of this bill authorizes the filing of a civil action to recover certain fees, administrative penalties and interest that were imposed erroneously. (NRS 116.31155) ~~{Section 23 of this bill requires an association to obtain the approval of the Commission before attempting to foreclose on a lien. (NRS 116.3116)}~~

Sections 24, 26 and 28 of this bill provide certain additional rights to units' owners by: (1) increasing the scope and definition of prohibited retaliatory action; (2) authorizing the exhibition of certain political signs in certain areas; and (3) mandating notice before interruption of utility service to a unit's owner. (NRS 116.31183, 116.325, 116.345)

Section 25 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187) Section 27 of this bill: (1) provides that existing law concerning drought tolerant landscaping must be construed broadly; and (2) clarifies the definition of "drought tolerant landscaping." (NRS 116.330) Section 29 of this bill provides that if a ~~{member of the executive board, officer of an association or}~~ community manager fails or refuses to comply with the governing documents of the association or the provisions of chapter 116 of NRS, any person or class of persons may bring a civil action for damages or other relief. (NRS 116.4117)

Section 30 of this bill increases the membership of the Commission by adding two members who are units' owners but who are not required to have served as members of an executive board. (NRS 116.600) ~~{Sections} Section 31 {and 34} of this bill {revise} revises provisions relating to the Commission's duties by {-(1)} providing for the use of training officers to perform certain duties, {-(2)} establishing a schedule for investigations of certain violations. (NRS 116.605) {-(116.765)}~~

Section 35 of this bill: (1) eliminates the authority of the Commission or hearing panel to order a respondent to pay the costs of the attorney's fees of the Division; and (2) provides that in any matter brought before the Commission or a hearing panel, attorney's fees must not be granted to the prevailing party, regardless of whether the governing documents provide for such fees to be granted to a prevailing party. (NRS 116.785) Section 36 of this bill clarifies that if the Commission or hearing officer orders an audit of an association, the audit is conducted at the expense of the association. (NRS 116.790)

Existing law provides that a written affidavit, supporting documentation and information compiled as the result of an investigation of an alleged violation are confidential unless and until a formal complaint is filed. (NRS 116.757, 116A.270) Sections 33 and 37 of this bill clarify existing law

to provide that such confidential information must not be disclosed to any person, including a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed.

Section 39 of this bill provides that the Commission must adopt regulations requiring an applicant for a certificate as a community manager to post a bond. (NRS 116A.410)

Section 40 of this bill revises existing law ~~[, which allows a party to apply for confirmation of an award in a nonbinding arbitration and thereby convert the award into a judgment.]~~ to provide that ~~[no party to a nonbinding arbitration may apply for confirmation of an award, vacation of an award, a judgment on the award or an award of attorney's fees incurred as the result of the nonbinding arbitration.]~~ upon selection or appointment of an arbitrator, the arbitrator must provide certain information concerning the procedures of the arbitration and applicable law to each party to the arbitration, and each party must return to the arbitrator an acknowledgment of the information provided by the arbitrator. (NRS 38.330)

WHEREAS, The Nevada Legislature previously deemed it important to set forth its intent regarding the creation and proper functioning of planned communities; and

WHEREAS, The Nevada Legislature previously noted that planned communities are a dominant method of residential development in the State of Nevada; and

WHEREAS, The Nevada Legislature previously noted that planned communities are developed for the purposes of preserving neighborhood continuity and creating desirable places to reside; and

WHEREAS, The Nevada Legislature previously noted that planned communities are governed by specific rules and regulations and by unit-owners' associations; and

WHEREAS, The Nevada Legislature previously noted that a unit-owners' association is the form of self-government closest to the people; and

WHEREAS, The Nevada Legislature previously declared that all forms of government should follow the basic principles of democracy found in the United States Constitution and the Nevada Constitution; and

WHEREAS, The Nevada Legislature previously noted that some unit-owners' associations in this State have a history of abuse of power; and

WHEREAS, The Nevada Legislature previously noted that unit-owners' associations have power over one of the most important aspects of a person's life, his residence; and

WHEREAS, The Nevada Legislature previously noted that homeowners invest financially and emotionally in their homes; and

WHEREAS, The Nevada Legislature previously declared that homeowners have the right to reside in a community without fear of illegal, unfair, unnecessary, unduly burdensome or costly interference with their property rights; and

WHEREAS, Many of the concerns previously noted by the Nevada Legislature persist to this day; and

WHEREAS, The Nevada Legislature deems it necessary and important to reiterate and endorse both the intent and the concerns previously expressed by the Nevada Legislature; and

WHEREAS, The establishment of planned communities is required by many local governments as a condition of granting necessary building permits for residential housing; and

WHEREAS, The form of self-government of a unit-owners' association includes legislative, executive and quasi-judicial powers and functions; now, therefore,

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 the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ~~1. A member of the executive board shall not knowingly vote on any matter before the executive board in which the member has:~~

~~(a) A direct pecuniary interest; or~~

~~(b) A commitment to a person:~~

~~(1) Who is a member of his household;~~

~~(2) Who is related to him by blood, adoption or marriage within the third degree of consanguinity;~~

~~(3) Who employs him or a member of his household; or~~

~~(4) With whom he has a substantial and continuing business relationship.~~

~~2. A member of the executive board who violates the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000. (Deleted by amendment.)~~

Sec. 3. 1. A person ~~who tampers or interferes with, or attempts to tamper or interfere with, the election of a member of the executive board~~ shall not knowingly, willfully and with the intent to fraudulently alter the true outcome of an election of a member of the executive board engage in, attempt to engage in, or conspire with another person to engage in, any of the following acts:

(a) Changing or falsifying a voter's ballot so that the ballot does not reflect the voter's true ballot.

(b) Forging or falsely signing a voter's ballot.

(c) Fraudulently casting a vote for himself or for another person that the person is not authorized to cast.

(d) Rejecting, failing to count, destroying, defacing or otherwise invalidating the valid ballot of another voter.

(e) Submitting a counterfeit ballot.

2. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 4. ~~AA~~ 1. Except as otherwise provided in subsection 3, a community manager or member of the executive board who asks for or receives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion or action upon any matter then pending or which may be brought before him in his capacity as a community manager or member of the executive board, will be influenced thereby, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. Except as otherwise provided in subsection 3, a person who offers or gives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that the vote, opinion or action of a community manager or member of the executive board upon any matter then pending or which may be brought before the community manager or member of the executive board in his capacity as a community manager or member of the executive board will be influenced thereby, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. The provisions of this section do not prohibit:

(a) An employee of a declarant or an affiliate of a declarant who is a member of an executive board from asking for or receiving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, from the declarant or affiliate.

(b) A declarant or an affiliate of a declarant whose employee is a member of an executive board from offering or giving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, to the employee who is a member of the executive board.

Sec. 5. 1. The Division shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of:

(a) Any provision of this chapter or chapter 116A or 116B of NRS;

(b) Any regulation adopted by the Commission, the Administrator or the Division; or

(c) Any decision of the Commission, the Administrator or the Division or any of its sections.

2. Declaratory orders disposing of petitions filed pursuant to this section have the same status as agency decisions.

3. A petition filed pursuant to this section must:

(a) Set forth the name and address of the petitioner; and

(b) Contain a clear and concise statement of the issues to be decided by the Division in its declaratory order or advisory opinion.

4. A petition filed pursuant to this section is submitted for consideration by the Division when it is filed with the Administrator.

5. The Division shall:

(a) Respond to a petition filed pursuant to this section within 60 days after the date on which the petition is submitted for consideration; and

*(b) Upon issuing its declaratory order or advisory opinion, mail a copy of the declaratory order or advisory opinion to the petitioner.*

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.

2. *As used in this section:*

*(a) "Ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.*

*(b) "Real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common-interest community" pursuant to this section.*

Sec. 7. NRS 116.1107 is hereby amended to read as follows:

116.1107 1. If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit's owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit's owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

2. Except as otherwise provided in subsection 1, if part of a unit is acquired by eminent domain, the award must compensate the unit's owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides:

*(a) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and*

*(b) The portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.*

3. If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

4. The judicial decree must be recorded in every county in which any portion of the common-interest community is located.

5. *The provisions of this section do not authorize an association to exercise the power of eminent domain pursuant to chapter 37 of NRS, and an association may not exercise the power of eminent domain, as provided in NRS 37.0097.*

Sec. 8. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter ~~[shall]~~ :

(a) *Shall* be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

(b) *Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.*

2. In the case of amendments to the declaration, bylaws or plats and plans of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 9. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, 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. *Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.*

(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.

Sec. 10. ~~[NRS 116.3103 is hereby amended to read as follows:~~

~~116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business judgment rule.~~

~~2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.~~

~~3. The executive board may not waive or refuse to enforce any provision of the governing documents.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 116.310305 is hereby amended to read as follows:~~

~~116.310305 1. A unit's owner shall adhere to a schedule required by the association for:~~

~~(a) The completion of the design of a unit or the design of an improvement to a unit;~~

~~(b) The commencement of the construction of a unit or the construction of an improvement to a unit;~~

~~(c) The completion of the construction of a unit or the construction of an improvement to the unit; or~~

~~(d) The issuance of a permit which is necessary for the occupancy of a unit or for the use of an improvement to a unit.~~

~~2. The association may impose and enforce a construction penalty against a unit's owner who fails to adhere to a schedule as required pursuant to subsection 1 if:~~

~~(a) The maximum amount of the construction penalty and the schedule are set forth in:~~

~~(1) The declaration;~~

~~(2) Another document related to the common interest community that is recorded before the date on which the unit's owner acquired title to the unit;~~  
~~or~~

~~(3) A contract between the unit's owner and the association; and~~

~~(b) The unit's owner receives notice of the alleged violation which informs him that he has a right to a hearing on the alleged violation.~~

~~3. If the association imposes a construction penalty against a unit's owner pursuant to the provisions of this section, an appeal to the Commission is deemed automatically taken by the unit's owner without any action by him, unless he affirmatively waives the appeal within 30 days after the imposition of the construction penalty. A construction penalty imposed by the association must be stayed until a review of the appeal by the Commission is completed. The Commission, when reviewing an appeal, may affirm the imposition of a construction penalty, set aside the imposition of a construction penalty or change the amount of any construction penalty.~~

~~4. For the purposes of this chapter, a construction penalty is not a fine. (Deleted by amendment.)~~

Sec. 12. 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~~ invitee 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~~ invitee 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~~ invitee 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~~ invitee 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 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 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 against a unit's owner for a violation of any provision of the governing documents of an association committed by ~~the tenant or guest~~ an invitee of the unit's owner unless the unit's owner:*

- (a) *Participated in or authorized the violation;*
- (b) *Had prior notice of the violation; or*
- (c) *Had an opportunity to stop the violation and failed to do so.*

3. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, 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 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.

~~{3.}~~ 4. The executive board must schedule the date, time and location for the hearing on the violation so that 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.}~~ 5. The executive board must hold a hearing before it may impose the fine, unless 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) Fails to appear at the hearing after being provided with proper notice of the hearing.]

~~{5.}~~ 6. ~~If the executive board imposes a fine pursuant to the provisions of this section, an appeal to the Commission is deemed automatically taken by the unit's owner or the tenant or guest of the unit's owner without any action by him for a fine imposed pursuant to paragraph (b) of subsection 1 that exceeds \$5,000 or that is for a violation which poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the unit's owners or residents of the common interest community, unless he affirmatively waives the appeal within 30 days after the imposition of the fine. A fine imposed by the executive board must be stayed until a review of the appeal by the Commission is completed. The Commission, when~~

~~reviewing an appeal, may affirm the imposition of a fine, set aside the imposition of a fine or change the amount of any fine.~~

~~7.]~~ If ~~a~~ ~~[the Commission affirms the]~~ fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days ~~after the decision by the Commission,~~ 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.}~~ ~~{8.}~~ 7. 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.}~~ ~~{9.}~~ 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.}~~ ~~{10.}~~ 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 residents 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.}~~ ~~{11.}~~ 10. 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. 12.5. 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~~ invitee of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association:

1. Shall, 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.

*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]~~ all 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. *Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners.* 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 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. *An association shall not adopt any rule or regulation that has the effect of prohibiting or interfering with a candidate in his campaign for election as a member of the executive board, except that his campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association's expense, 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 ~~the campaign literature of the candidate. The campaign literature may~~ a candidate informational statement. The candidate informational statement:*

*(a) Must be no longer than a single, typed page;*

*(b) Must not contain any defamatory, libelous or profane information; and*

*(c) May be sent with the secret ballot mailed pursuant to subsection 8 or in a separate mailing. ~~It~~ provided that the candidate pays for the cost of the mailing. In the event that more than one candidate requests that campaign literature be sent with the secret ballot mailed pursuant to subsection 8, the costs of including the campaign literature must be shared equally among the candidates.*

*↳ The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which*

occurs in the course of carrying out any duties required pursuant to this subsection.

10. 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 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section ~~the~~ :

- (a) ~~The~~ The number of votes cast ~~in favor of removal~~ constitutes ~~at least 35 percent of the total number of voting members of the association; and~~
- (b) At least a majority of all votes cast in that removal election ~~are cast in favor of removal.~~

2. The removal 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 removal of a 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) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) 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.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, 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.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 15. NRS 116.3107 is hereby amended to read as follows:

116.3107 1. Except to the extent provided by the declaration, subsection 2 and NRS 116.31135, the association ~~is responsible~~ *has the duty to provide* for the maintenance, repair and replacement of the common elements, and each unit's owner ~~is responsible~~ *has the duty to provide* for the maintenance, repair and replacement of his unit. Each unit's owner shall afford to the association and the other units' owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit's owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

2. In addition to the liability that a declarant as a unit's owner has under this chapter, the declarant alone is liable for all expenses in connection with real estate subject to developmental rights. No other unit's owner and no other portion of the common-interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to developmental rights inures to the declarant.

3. In a planned community, if all developmental rights have expired with respect to any real estate, the declarant remains liable for all expenses of that real estate unless, upon expiration, the declaration provides that the real estate becomes common elements or units.

Sec. 16. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least

10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

↪ *The association shall not adopt any rule or regulation which prevents, discourages or interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.*

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, 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. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. 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.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners ~~for each item on the agenda~~ and ~~for~~ discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. 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 meeting 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.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner 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.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before

recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. 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 3 or 4.

Sec. 17. 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 days.

2. Except in an emergency 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 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. 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 *audio recording*, 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. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. ~~[The]~~ A period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for both the beginning and the end of each meeting. During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda. 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. At least once every 90 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. The secretary or other officer specified in the bylaws shall cause *each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken ~~[electronically]~~* at each meeting of the executive board ~~[ ]~~, *but if the executive board is meeting in executive session, the meeting must not be audio recorded.* Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the *audio recording of the meeting, the minutes ~~[or]~~ of the meeting and a summary of the minutes of the ~~[meetings]~~ meeting* to be made available to the units' owners. A copy of the *audio recording, 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. Except as otherwise provided in subsection 9 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. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. 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. 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.

Sec. 18. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract ~~unless it is a contract between the association and an attorney.~~

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive ~~or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.~~

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; ~~and~~

~~(b) Is entitled to invite anyone he wishes, including, without limitation, witnesses and the media, to attend with him all portions of the hearing relating to the alleged violation;~~

~~(c) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, including, which must include, without limitation, the right to testify, the right to call witnesses, the right to confront and cross examine witnesses against him, the right to counsel, the right to see all the documents considered by the executive board as a basis for the hearing and the right to require written findings of fact which form the basis of any decision made by the executive board;~~

~~(d) Is entitled to one peremptory challenge of a member of the executive board and may make any subsequent challenges for cause; and present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and~~

~~(e)~~ (c) Is not entitled to attend the deliberations of the executive board.

5. The provisions of subsection 4 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection 4 do not preempt any provisions of the governing documents that provide greater protections.

6. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

~~6.~~ 7. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 19. NRS 116.31087 is hereby amended to read as follows:

116.31087 1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall ~~[, if action is required by the executive board,]~~ upon the written request of the unit's owner, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that ~~if [action is required by the executive board,]~~ the unit's owner submits a written request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board, the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

Sec. 20. NRS 116.31088 is hereby amended to read as follows:

116.31088 1. The association shall provide written notice to each unit's owner of a meeting at which the commencement of a civil action is to be considered at least 21 calendar days before the date of the meeting. Except as otherwise provided in this subsection, the association may commence a civil action only upon a vote or written agreement of the owners of units to which at least a majority of the votes of the members of the association are allocated. The provisions of this subsection do not apply to a civil action that is commenced:

- (a) To enforce the payment of an assessment;
- (b) To enforce the declaration, bylaws or rules of the association;
- (c) To enforce a contract with a vendor;
- (d) To proceed with a counterclaim; or

(e) To protect the health, safety and welfare of the members of the association ~~[,]~~, *except that the provisions of this paragraph do not apply to the commencement of an action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive.* If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the *approval by the executive board of the commencement of the civil action* must be ratified, within 90 days after the *date on which the executive board approves the commencement of the civil action*, by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated. If the association ~~[, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify such a civil action,]~~ *fails to ratify the approval by the executive board of the commencement of the civil action within the required period,* the association ~~[may]~~ *must* thereafter seek to dismiss the action without prejudice. ~~[for that reason only if a vote of written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated]~~

~~was obtained at the time the approval to commence or ratify the action was sought.]~~

2. At least 10 days before an association commences or seeks to ratify the commencement of a civil action, the association shall provide a written statement to all the units' owners that includes:

(a) A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;

(b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and

(c) All disclosures that are required to be made upon the sale of the property.

3. No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.

4. If any civil action in which the association is a party is settled, the executive board shall disclose the terms and conditions of the settlement at the next regularly scheduled meeting of the executive board after the settlement has been reached. The executive board may not approve a settlement which contains any terms and conditions that would prevent the executive board from complying with the provisions of this subsection.

Sec. 21. 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.*

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. 22. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541, 87A.560 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this

section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required pursuant to this section to the Administrator if they are not paid by the master association.

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed \$3 per unit.

4. The Division shall impose an administrative penalty against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or master association or \$500, whichever amount is less. The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to both an association and a master association.

6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.

7. A master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by an association that is subject to the governing documents of the master association.

8. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association or master association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

9. *Any person, association or master association which has been requested or required to pay any fees, administrative penalties or interest pursuant to this section and which believes that such fees, administrative penalties or interest has been imposed in error may, without exhausting any*

available administrative remedies, bring an action in a court of competent jurisdiction to recover:

(a) Any amount paid in error for any fees, administrative penalties or interest during the immediately preceding 3 years;

(b) Interest on the amount paid in error at the rate set forth in NRS 99.040; and

(c) Reasonable costs and attorney's fees.

Sec. 23. ~~NRS 116.3116 is hereby amended to read as follows:~~

~~116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.~~

~~2. A lien under this section is prior to all other liens and encumbrances on a unit except:~~

~~(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;~~

~~(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and~~

~~(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.~~

~~The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.~~

~~3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.~~

~~4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.~~

~~5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.~~

~~6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.~~

~~7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.~~

~~8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.~~

~~9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:~~

~~(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.~~

~~(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:~~

~~(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or~~

~~(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.~~

~~10. The association must obtain approval from the Commission before attempting to foreclose its lien pursuant to the provisions of NRS 116.31162 to 116.31168, inclusive. (Deleted by amendment.)~~

Sec. 24. NRS 116.31183 is hereby amended to read as follows:

116.31183 1. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

~~{1.}~~ (a) Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

~~(b) Recommended the selection or replacement of an attorney, community manager or vendor; or, unless such a selection or replacement would constitute a material breach of an existing contract;~~

~~{2.}~~ (c) Requested in good faith to review the books, records or other papers of the association.

2. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not

*intentionally interfere with the exercise of any right conferred on a person pursuant to the provisions of this chapter.*

Sec. 25. 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. 26. NRS 116.325 is hereby amended to read as follows:

116.325 1. The executive board shall not and the governing documents must not prohibit a unit's owner or an occupant of a unit from exhibiting ~~political signs~~ *one or more political signs* within such physical portion of the common-interest community as that owner or occupant has a right to occupy and use exclusively ~~if the political sign is found on any wall which is a common element or limited common element and which is immediately adjacent to the unit,~~ *if the political sign is found on any wall which is a common element or limited common element and which is immediately adjacent to the unit,* subject to the following conditions:

(a) All *political signs* exhibited must not be larger than 24 inches by 36 inches.

(b) *If the unit is occupied by a tenant, the unit's owner may not exhibit any political sign unless the tenant consents, in writing, to the exhibition of the political sign.*

(c) ~~If any political sign is exhibited on a wall which is a common element or limited common element, the political sign:~~

~~(1) Must be exhibited in a manner that does not damage the wall; and~~

~~(2) Is~~ All political signs exhibited are subject to any applicable provisions of law governing the posting of political signs.

(d) A unit's owner or an occupant of a unit may exhibit as many political signs as desired, but may not exhibit more than one political sign for each candidate, political party or ballot question.

2. The provisions of this section establish the minimum rights of a unit's owner or an occupant of a unit to exhibit ~~a~~ political ~~sign~~ signs. The provisions of this section do not preempt any provisions of the governing

documents that provide greater rights and do not require the governing documents or the executive board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.

3. *Any provision in a rental agreement which violates the provisions of this section or which requires a tenant to waive any rights pursuant to this section or other provisions of law is void as against public policy.*

4. As used in this section, "political sign" means a sign that expresses support for or opposition to a candidate, political party or ballot question ~~±~~ in any federal, state or local election or any election of an association.

Sec. 27. NRS 116.330 is hereby amended to read as follows:

116.330 1. The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, *including, without limitation, the front yard or back yard of the unit's owner*, except that:

(a) Before installing drought tolerant landscaping, the unit's owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and

(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

➔ *The provisions of this subsection must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.*

2. Installation of drought tolerant landscaping within any common element or conversion of traditional landscaping or cultivated vegetation, such as turf grass, to drought tolerant landscaping within any common element shall not be deemed to be a change of use of the common element unless:

(a) The common element has been designated as a park, open play space or golf course on a recorded plat map; or

(b) The traditional landscaping or cultivated vegetation is required by a governing body under the terms of any applicable zoning ordinance, permit or approval or as a condition of approval of any final subdivision map.

3. As used in this section, "drought tolerant landscaping" means landscaping which conserves water, protects the environment and is adaptable to local conditions. *The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.*

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 shall 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. 29. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. ~~HF~~ *Subject to the requirements set forth in subsection 2, if a declarant, ~~member of an executive board, officer of an association,~~ community manager or any other person subject to this chapter fails ~~for~~ ~~refuses~~ to comply with any of its provisions or any provision of the declaration or bylaws, governing documents of an association, any person*

or class of persons suffering actual damages from the failure ~~for refusal~~ to comply ~~has a claim~~ may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages ~~caused by~~ or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

- (1) A declarant; ~~or~~
- (2) ~~A member of the executive board;~~
- ~~(3) An officer of the association;~~
- ~~(4) A community manager; or~~
- ~~##5##~~ (3) A unit's owner.

(b) By a unit's owner against:

- (1) The association;
- (2) A declarant; or
- (3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against ~~the~~

- ~~(1) A member of the executive board;~~
- ~~(2) An officer of the association; or~~
- ~~(3) A~~ a community manager.

3. Punitive damages may be awarded for a willful and material failure ~~for refusal~~ to comply with any provision of this chapter ~~for the governing documents of an association~~ if the failure ~~for refusal~~ is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

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

Sec. 30. NRS 116.600 is hereby amended to read as follows:

116.600 1. The Commission for Common-Interest Communities and Condominium Hotels is hereby created.

2. The Commission consists of ~~five~~ seven members appointed by the Governor. The Governor shall appoint to the Commission:

(a) One member who is a unit's owner residing in this State and who has served as a member of an executive board in this State;

(b) Two members who are units' owners residing in this State but who are not required to have served as members of an executive board;

(c) One member who is in the business of developing common-interest communities in this State;

~~##e##~~ (d) One member who holds a certificate;

~~##d##~~ (e) One member who is a certified public accountant licensed to practice in this State pursuant to the provisions of chapter 628 of NRS; and

~~##e##~~ (f) One member who is an attorney licensed to practice in this State.

3. Each member of the Commission must be a resident of this State. At least ~~three~~ *four* members of the Commission must be residents of a county whose population is 400,000 or more.

4. Each member of the Commission must have resided in a common-interest community or have been actively engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of his appointment.

5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.

6. While engaged in the business of the Commission, each member is entitled to receive:

(a) A salary of not more than \$80 per day, as established by the Commission; and

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 31. NRS 116.605 is hereby amended to read as follows:

116.605 1. The Division shall *employ one or more training officers who are qualified by training and experience to provide* ~~for arrange to have provided~~ to each member of the Commission courses of instruction concerning rules of procedure and substantive law appropriate for members of the Commission. *Such courses of instruction may be made available to the staff of the Division as well as to community managers.*

2. *The training officer shall:*

(a) *Prepare and make available a manual containing the policies and procedures to be followed by executive boards and community managers; and*

(b) *Perform any other duties as directed by the Division.*

3. Each member of the Commission must attend the courses of instruction *described in subsection 1* not later than 6 months after the date that the member is first appointed to the Commission.

Sec. 32. NRS 116.675 is hereby amended to read as follows:

116.675 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. *An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.*

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 33. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. *The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure is required pursuant to subsection 2.*

2. A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, are public records.

Sec. 34. ~~NRS 116.765 is hereby amended to read as follows:~~

~~116.765 1. Upon receipt of an affidavit that complies with the provisions of NRS 116.760, the Division shall immediately refer the affidavit to the Ombudsman.~~

~~2. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.~~

~~3. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division, within 30 days after the affidavit is received by the Ombudsman, a report concerning the alleged violation and any information collected by the Ombudsman during his efforts to assist the parties to resolve the alleged violation.~~

~~4. [Upon] Except as otherwise provided in this subsection, upon receipt of the report from the Ombudsman, the Division shall conduct and complete an investigation within 45 days to determine whether good cause exists to proceed with a hearing on the alleged violation. The Division may be granted an extension of time in which to complete an investigation if the Division~~

~~obtains written approval granting such an extension from the person who is aggrieved by an alleged violation.~~

~~5. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.~~ *(Deleted by amendment.)*

Sec. 35. NRS 116.785 is hereby amended to read as follows:

116.785 1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

- (a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.
- (b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.
- (c) Impose an administrative fine of not more than \$1,000 for each violation.

2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his office or position if the Commission or the hearing panel, after notice and hearing, finds that:

- (a) The respondent has knowingly and willfully committed a violation; and
- (b) The removal is in the best interest of the association.

3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than \$1,000 for each violation.

4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation . ~~and reasonable attorney's fees.~~

5. *In any matter brought before the Commission or a hearing panel pursuant to the provisions of this chapter, attorney's fees must not be granted to a prevailing party, regardless of whether the governing documents provide for such fees to be granted to a prevailing party.*

6. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:

- (a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and
- (b) The respondent may not be held personally liable for those fines and costs.

Sec. 36. NRS 116.790 is hereby amended to read as follows:

116.790 1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

(a) Order an audit of the association ~~+~~, *at the expense of the association.*

(b) Require the executive board to hire a community manager who holds a certificate.

2. The Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:

(a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or

(c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.

3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.

5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.

6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:

(a) Take charge of the estate and effects of the association;

(b) Appoint an agent or agents;

(c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;

(d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and

(e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.

Sec. 37. NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division alleging a violation of this chapter or chapter 116 or 116B of NRS, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential. ~~and may be disclosed~~

2. *The Division shall not disclose any information that is confidential pursuant to subsection 1, in whole or in part ~~only~~, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 3 and the disclosure is required pursuant to subsection 3, except that the Division may disclose the information described in subsection 1 as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate or permit issued pursuant to this chapter.*

~~2.~~ 3. *The formal complaint or other charging documents filed by the Administrator with the Commission to initiate disciplinary action and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline are public records.*

Sec. 38. NRS 116A.300 is hereby amended to read as follows:

116A.300 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. *An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.*

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the

Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 39. 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.

(b) *Must require an applicant to post a bond in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.*

(c) May require applicants to pass an examination in order to obtain a certificate. 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.

~~[(e)]~~ (d) 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)]~~ (e) 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)]~~ (f) 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.

Sec. 40. NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party. An arbitrator shall, not later than 5 days after his selection or appointment pursuant to this subsection, provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The written informational statement:

(a) Must be written in plain English;

(b) Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and

(c) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission for Common-Interest Communities and Condominium Hotels approves the payment; and

(b) There is money available in the account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

5. If all the parties have agreed to nonbinding arbitration, any ~~any~~

~~(a) Any~~ party to the *nonbinding* arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for

arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

~~f (b) No party to the nonbinding arbitration may apply for:~~

~~(1) A confirmation of the award pursuant to NRS 38.239;~~

~~(2) A vacation of the award pursuant to NRS 38.241;~~

~~(3) A judgment on the award pursuant to NRS 38.243; or~~

~~(4) Any award of attorney's fees from the arbitrator or any court pursuant to any provision of law, any court rule or any provision in the governing documents of the association, for any attorney's fees incurred as the result of the nonbinding arbitration.~~

6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such *binding* arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.

7. If, after the conclusion of *binding* arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

↪ the party shall, if he fails to obtain a more favorable award or judgment than that which was obtained in the initial *binding* arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

8. Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.

9. As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

Sec. 41. The Governor shall appoint to the Commission for Common-Interest Communities and Condominium Hotels pursuant to NRS 116.600, as amended by section 30 of this act:

1. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2010; and

2. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2011.

Sec. 42. The manual described in subsection 2 of NRS 116.605, as amended by section 31 of this act, must be prepared and made available by October 1, 2010.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Senate Bill No. 182 and Senate Bill No. 183 both deal with common interest communities. Both bills as were originally introduced were lengthy. There was a working group put together by a number of people who practice in this area as well as the input from the bills' sponsor in both cases. Many of the measures in Senate Bill No. 182 and Senate Bill No. 183 were actually in there one way or another in both bills so the language was amended in both bills so the language was not duplicative. This amendment is for Senate Bill No. 182.

The amendment removes the criminal charge and civil fine against a member of the executive board who votes on a matter in which he has a direct pecuniary interest. Instead, it adds that a person cannot knowingly and fraudulently alter the outcome of an election.

It provides that anyone who gives or offers compensation in exchange for the vote or action of a community manager or board member is guilty of a category C felony.

It deletes the automatic appeal of construction penalties by the unit's owner for penalties charged by the association, and certain fines imposed by the executive board against a unit's owner, tenant or invitee for a violation of provisions in the association's governing documents.

It revises provisions for those campaigning for election to an executive board, and provides immunity from criminal or civil liability for an association and its officers for the disclosure of certain information pursuant to certain required duties associated with elections.

It requires public comment at both the beginning and end of an association meeting, with comments at the beginning limited to items on the agenda.

It makes changes to the process for an open hearing of anyone sanctioned by the executive board, and authorizes a unit's owner to make a written request that a complaint filed against an association be put on the board's next agenda.

It deletes language that would have required an association to obtain certain approvals before foreclosing on a lien.

It limits a unit's owner to one political sign per candidate, party or ballot question.

It removes the schedule for investigations of certain violations and it sets forth duties of an arbiter, if one is appointed, and removes language that addressed nonbinding arbitration.

Amendment adopted.

The following amendment was proposed by Senator Horsford:

Amendment No. 504.

"SUMMARY—Makes various changes relating to common-interest communities. (BDR 10-795)"

"AN ACT relating to common-interest communities; clarifying various provisions of existing law relating to certain definitions of terms, provisions of governing documents that violate statutory provisions, elections and the authority of an association to levy certain assessments under certain circumstances; revising certain provisions governing the authority of an association to impose fines and construction penalties under certain circumstances; making various other changes to the provisions governing common-interest communities; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill provides that a member of the executive board who has a direct pecuniary interest or commitment to certain persons in a matter before the executive board and who knowingly votes on the matter is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.

Section 3 of this bill provides that a person who tampers or interferes with the election of a member to the executive board is guilty of a category C felony. (NRS 116.31034) Existing law prohibits a community manager, an officer or a member of the executive board from accepting or soliciting compensation that would influence him or appear to be a conflict of interest. (NRS 116.31185) Section 4 of this bill provides that a community manager or member of the executive board who asks for or receives compensation to influence his vote, opinion or action upon any official matter is guilty of a category C felony.

Existing law requires each agency to provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency, and the Department of Business and Industry, which includes the Real Estate Division, has accordingly adopted regulations for such petitions. (NRS 233B.120; NAC 232.020) However, the Real Estate Division has not adopted any regulations pertaining to such petitions. Section 5 of this bill enacts a specific statutory provision requiring the Real Estate Division to adopt regulations pertaining to such petitions.

Under existing law, a "common-interest community" is defined as "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." (NRS 116.021) Section 6 of this bill clarifies existing law with respect to this definition by providing explicitly that, as used in this definition, the term "real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common-interest community."

Existing law contains provisions concerning units or common elements of an association that are acquired by eminent domain. (NRS 116.1107) Section 7 of this bill clarifies that existing law does not authorize an association to exercise the power of eminent domain. Section 8 of this bill clarifies that any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of chapter 116 of NRS is superseded by the provisions of chapter 116 of NRS, regardless of whether the provision became effective before the enactment of the statutory provision being violated. (NRS 116.1206)

Sections 9 and 10 of this bill revise existing law to limit an association's power: (1) to include certain provisions in certain contracts involving the association; and (2) to waive provisions of governing documents. (NRS 116.3102, 116.3103)

Existing law authorizes an executive board to impose fines and construction penalties. (NRS 116.310305, 116.31031) Sections 11 and 12 of this bill provide for an automatic appeal of such fines and construction penalties to the Commission for Common-Interest Communities and Condominium Hotels. Section 12 also limits the imposition of fines against a

unit's owner for violations of the governing documents by a tenant or guest of the unit's owner.

Sections 13, 14 and 16 of this bill revise provisions relating to certain elections and meetings of an association by: (1) requiring members of the executive board to be units' owners; (2) providing that officers of an association are not required to be units' owners, unless the governing documents provide otherwise; (3) providing certain rights for candidates for election to an executive board; (4) reducing the votes necessary for removal of a member of an executive board; and (5) prohibiting an association from interfering with the collection of signatures for a special meeting or removal election. (NRS 116.31034, 116.31036, 116.3108)

Section 15 of this bill clarifies existing law concerning the respective duties of an association and the units' owners regarding the maintenance, repair and replacement of the common elements and the units. (NRS 116.3107)

Sections 17-19 of this bill revise provisions relating to board meetings and hearings by: (1) requiring that meetings of the executive board be audio recorded and available in a certain manner; (2) requiring that certain written complaints be placed on the agenda; and (3) providing due process protections to units' owners at certain hearings. (NRS 116.31083, 116.31085, 116.31087) Section 17 also revises existing law to allow public comments to be made after every agenda item instead of at the beginning of a meeting. (NRS 116.31083)

~~f Existing law contains certain requirements concerning prior approval by an association before commencement of a civil action, as well as certain exceptions to obtaining such prior approval. (NRS 116.31088) Section 20 of this bill: (1) revises the period for ratification of the decision to commence certain civil actions; and (2) provides that a certain exception to the requirement of obtaining prior approval before commencing a civil action does not apply to an action for a constructional defect.~~

Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152) Section 21 of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves.

Section 22 of this bill authorizes the filing of a civil action to recover certain fees, administrative penalties and interest that were imposed erroneously. (NRS 116.31155) Section 23 of this bill requires an association

to obtain the approval of the Commission before attempting to foreclose on a lien. (NRS 116.3116)

Sections 24, 26 and 28 of this bill provide certain additional rights to units' owners by: (1) increasing the scope and definition of prohibited retaliatory action; (2) authorizing the exhibition of certain political signs in certain areas; and (3) mandating notice before interruption of utility service to a unit's owner. (NRS 116.31183, 116.325, 116.345)

Section 25 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187) Section 27 of this bill: (1) provides that existing law concerning drought tolerant landscaping must be construed broadly; and (2) clarifies the definition of "drought tolerant landscaping." (NRS 116.330) Section 29 of this bill provides that if a member of the executive board, officer of an association or community manager fails or refuses to comply with the governing documents of the association or the provisions of chapter 116 of NRS, any person or class of persons may bring a civil action for damages or other relief. (NRS 116.4117)

Section 30 of this bill increases the membership of the Commission by adding two members who are units' owners but who are not required to have served as members of an executive board. (NRS 116.600) Sections 31 and 34 of this bill revise provisions relating to the Commission's duties by: (1) providing for the use of training officers to perform certain duties; and (2) establishing a schedule for investigations of certain violations. (NRS 116.605, 116.765)

Section 35 of this bill: (1) eliminates the authority of the Commission or hearing panel to order a respondent to pay the costs of the attorney's fees of the Division; and (2) provides that in any matter brought before the Commission or a hearing panel, attorney's fees must not be granted to the prevailing party, regardless of whether the governing documents provide for such fees to be granted to a prevailing party. (NRS 116.785) Section 36 of this bill clarifies that if the Commission or hearing officer orders an audit of an association, the audit is conducted at the expense of the association. (NRS 116.790)

Existing law provides that a written affidavit, supporting documentation and information compiled as the result of an investigation of an alleged violation are confidential unless and until a formal complaint is filed. (NRS 116.757, 116A.270) Sections 33 and 37 of this bill clarify existing law to provide that such confidential information must not be disclosed to any person, including a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed.

Section 39 of this bill provides that the Commission must adopt regulations requiring an applicant for a certificate as a community manager to post a bond. (NRS 116A.410)

Section 40 of this bill revises existing law, which allows a party to apply for confirmation of an award in a nonbinding arbitration and thereby convert

the award into a judgment, to provide that no party to a nonbinding arbitration may apply for confirmation of an award, vacation of an award, a judgment on the award or an award of attorney's fees incurred as the result of the nonbinding arbitration. (NRS 38.330)

WHEREAS, The Nevada Legislature previously deemed it important to set forth its intent regarding the creation and proper functioning of planned communities; and

WHEREAS, The Nevada Legislature previously noted that planned communities are a dominant method of residential development in the State of Nevada; and

WHEREAS, The Nevada Legislature previously noted that planned communities are developed for the purposes of preserving neighborhood continuity and creating desirable places to reside; and

WHEREAS, The Nevada Legislature previously noted that planned communities are governed by specific rules and regulations and by unit-owners' associations; and

WHEREAS, The Nevada Legislature previously noted that a unit-owners' association is the form of self-government closest to the people; and

WHEREAS, The Nevada Legislature previously declared that all forms of government should follow the basic principles of democracy found in the United States Constitution and the Nevada Constitution; and

WHEREAS, The Nevada Legislature previously noted that some unit-owners' associations in this State have a history of abuse of power; and

WHEREAS, The Nevada Legislature previously noted that unit-owners' associations have power over one of the most important aspects of a person's life, his residence; and

WHEREAS, The Nevada Legislature previously noted that homeowners invest financially and emotionally in their homes; and

WHEREAS, The Nevada Legislature previously declared that homeowners have the right to reside in a community without fear of illegal, unfair, unnecessary, unduly burdensome or costly interference with their property rights; and

WHEREAS, Many of the concerns previously noted by the Nevada Legislature persist to this day; and

WHEREAS, The Nevada Legislature deems it necessary and important to reiterate and endorse both the intent and the concerns previously expressed by the Nevada Legislature; and

WHEREAS, The establishment of planned communities is required by many local governments as a condition of granting necessary building permits for residential housing; and

WHEREAS, The form of self-government of a unit-owners' association includes legislative, executive and quasi-judicial powers and functions; now, therefore,

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 the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. *A member of the executive board shall not knowingly vote on any matter before the executive board in which the member has:*

*(a) A direct pecuniary interest; or*

*(b) A commitment to a person:*

*(1) Who is a member of his household;*

*(2) Who is related to him by blood, adoption or marriage within the third degree of consanguinity;*

*(3) Who employs him or a member of his household; or*

*(4) With whom he has a substantial and continuing business relationship.*

2. *A member of the executive board who violates the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.*

Sec. 3. *A person who tampers or interferes with, or attempts to tamper or interfere with, the election of a member of the executive board is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

Sec. 4. *A community manager or member of the executive board who asks for or receives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion or action upon any matter then pending or which may be brought before him in his capacity as a community manager or member of the executive board, will be influenced thereby, is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

Sec. 5. 1. *The Division shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of:*

*(a) Any provision of this chapter or chapter 116A or 116B of NRS;*

*(b) Any regulation adopted by the Commission, the Administrator or the Division; or*

*(c) Any decision of the Commission, the Administrator or the Division or any of its sections.*

2. *Declaratory orders disposing of petitions filed pursuant to this section have the same status as agency decisions.*

3. *A petition filed pursuant to this section must:*

*(a) Set forth the name and address of the petitioner; and*

*(b) Contain a clear and concise statement of the issues to be decided by the Division in its declaratory order or advisory opinion.*

4. *A petition filed pursuant to this section is submitted for consideration by the Division when it is filed with the Administrator.*

5. *The Division shall:*

*(a) Respond to a petition filed pursuant to this section within 60 days after the date on which the petition is submitted for consideration; and*

*(b) Upon issuing its declaratory order or advisory opinion, mail a copy of the declaratory order or advisory opinion to the petitioner.*

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.

2. *As used in this section:*

*(a) "Ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.*

*(b) "Real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common-interest community" pursuant to this section.*

Sec. 7. NRS 116.1107 is hereby amended to read as follows:

116.1107 1. If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit's owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit's owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

2. Except as otherwise provided in subsection 1, if part of a unit is acquired by eminent domain, the award must compensate the unit's owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides:

*(a) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and*

*(b) The portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.*

3. If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

4. The judicial decree must be recorded in every county in which any portion of the common-interest community is located.

5. *The provisions of this section do not authorize an association to exercise the power of eminent domain pursuant to chapter 37 of NRS, and an association may not exercise the power of eminent domain, as provided in NRS 37.0097.*

Sec. 8. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter ~~[shall]~~ :

(a) *Shall* be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

(b) *Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.*

2. In the case of amendments to the declaration, bylaws or plats and plans of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 9. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, 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. *Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.*

(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.

Sec. 10. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

3. *The executive board may not waive or refuse to enforce any provision of the governing documents.*

Sec. 11. NRS 116.310305 is hereby amended to read as follows:

116.310305 1. A unit's owner shall adhere to a schedule required by the association for:

(a) The completion of the design of a unit or the design of an improvement to a unit;

(b) The commencement of the construction of a unit or the construction of an improvement to a unit;

(c) The completion of the construction of a unit or the construction of an improvement to the unit; or

(d) The issuance of a permit which is necessary for the occupancy of a unit or for the use of an improvement to a unit.

2. The association may impose and enforce a construction penalty against a unit's owner who fails to adhere to a schedule as required pursuant to subsection 1 if:

(a) The maximum amount of the construction penalty and the schedule are set forth in:

(1) The declaration;

(2) Another document related to the common-interest community that is recorded before the date on which the unit's owner acquired title to the unit; or

(3) A contract between the unit's owner and the association; and

(b) The unit's owner receives notice of the alleged violation which informs him that he has a right to a hearing on the alleged violation.

3. *If the association imposes a construction penalty against a unit's owner pursuant to the provisions of this section, an appeal to the Commission is deemed automatically taken by the unit's owner without any action by him, unless he affirmatively waives the appeal within 30 days after the imposition of the construction penalty. A construction penalty imposed by the association must be stayed until a review of the appeal by the Commission is completed. The Commission, when reviewing an appeal, may affirm the imposition of a construction penalty, set aside the imposition of a construction penalty or change the amount of any construction penalty.*

4. For the purposes of this chapter, a construction penalty is not a fine.

Sec. 12. 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 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 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 against a unit's owner for a violation of any provision of the governing documents of an association committed by a tenant or guest of the unit's owner unless the unit's owner:*

- (a) *Participated in or authorized the violation;*
- (b) *Had prior notice of the violation; or*
- (c) *Had an opportunity to stop the violation and failed to do so.*

3. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, 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 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.

~~{3-}~~ 4. The executive board must schedule the date, time and location for the hearing on the violation so that 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-}~~ 5. The executive board must hold a hearing before it may impose the fine, unless 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) Fails to appear at the hearing after being provided with proper notice of the hearing.

~~{5-}~~ 6. *If the executive board imposes a fine pursuant to the provisions of this section, an appeal to the Commission is deemed automatically taken by the unit's owner or the tenant or guest of the unit's owner without any action by him for a fine imposed pursuant to paragraph (b) of subsection 1 that exceeds \$5,000 or that is for a violation which 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, unless he affirmatively waives the appeal within 30 days after the imposition of the fine. A fine imposed by the executive board must be stayed until a review of the appeal by the Commission is completed. The Commission, when*

*reviewing an appeal, may affirm the imposition of a fine, set aside the imposition of a fine or change the amount of any fine.*

7. If ~~the~~ the Commission affirms the fine ~~is~~ imposed pursuant to subsection 1 and the violation is not cured within 14 days ~~of~~ after the decision by the Commission, 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.~~ 8. 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.~~ 9. 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.~~ 10. 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 residents 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.~~ 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. 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}~~ all 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. *Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners.* 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 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. *An association shall not adopt any rule or regulation that has the effect of prohibiting or interfering with a candidate in his campaign for election as a member of the executive board, except that his campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send 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 the campaign literature of the candidate. The campaign literature may be sent with the secret ballot mailed pursuant to subsection 8 or in a separate mailing, provided that the candidate pays for the cost of the mailing. In the event that more than one candidate requests that campaign literature be sent with the secret ballot mailed pursuant to subsection 8, the costs of including the campaign literature must be shared equally among the candidates.*

10. 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 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section ~~the~~ :

- (a) ~~The~~ The number of votes cast ~~in favor of removal~~ constitutes ~~[-~~ ~~(a) At~~ at least 35 percent of the total number of voting members of the association; and
- (b) At least a majority of all votes cast in that removal election ~~[-]~~ *are cast in favor of removal.*

2. The removal 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 removal of a 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) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) 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.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, 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.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 15. NRS 116.3107 is hereby amended to read as follows:

116.3107 1. Except to the extent provided by the declaration, subsection 2 and NRS 116.31135, the association ~~is responsible~~ *has the duty to provide* for the maintenance, repair and replacement of the common elements, and each unit's owner ~~is responsible~~ *has the duty to provide* for the maintenance, repair and replacement of his unit. Each unit's owner shall afford to the association and the other units' owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit's owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

2. In addition to the liability that a declarant as a unit's owner has under this chapter, the declarant alone is liable for all expenses in connection with real estate subject to developmental rights. No other unit's owner and no other portion of the common-interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to developmental rights inures to the declarant.

3. In a planned community, if all developmental rights have expired with respect to any real estate, the declarant remains liable for all expenses of that real estate unless, upon expiration, the declaration provides that the real estate becomes common elements or units.

Sec. 16. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

↪ *The association shall not adopt any rule or regulation which prevents, discourages or interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.*

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, 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. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. 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.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners *for each item on the agenda* and a discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. 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 meeting 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.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner 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.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. 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 3 or 4.

Sec. 17. 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 days.

2. Except in an emergency 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 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. 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 *audio recording, 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. 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. At least once every 90 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. The secretary or other officer specified in the bylaws shall cause *each meeting of the executive board to be audio recorded and the minutes* to be

recorded or otherwise taken *electronically* at each meeting of the executive board ~~[-]~~, *but if the executive board is meeting in executive session, the meeting must not be audio recorded.* Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the *audio recording of the meeting, the minutes ~~[-]~~ of the meeting and a summary of the minutes of the ~~meetings] meeting~~ to be made available to the units' owners. A copy of the *audio recording, 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. Except as otherwise provided in subsection 9 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. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. 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. 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.

Sec. 18. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board

and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive. [~~or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.~~]

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; [~~and~~]

(b) *Is entitled to invite anyone he wishes, including, without limitation, witnesses and the media, to attend with him all portions of the hearing relating to the alleged violation;*

(c) *Is entitled to due process, including, without limitation, the right to testify, the right to call witnesses, the right to confront and cross-examine witnesses against him, the right to counsel, the right to see all the documents considered by the executive board as a basis for the hearing and the right to require written findings of fact which form the basis of any decision made by the executive board;*

(d) *Is entitled to one peremptory challenge of a member of the executive board and may make any subsequent challenges for cause; and*

(e) Is not entitled to attend the deliberations of the executive board.

5. *The provisions of subsection 4 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection 4 do not preempt any provisions of the governing documents that provide greater protections.*

6. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

~~{6.}~~ 7. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 19. NRS 116.31087 is hereby amended to read as follows:

116.31087 1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall ~~{, if action is required by the executive board,}~~ place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that ~~{, if action is required by the executive board,}~~ the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

Sec. 20. ~~{NRS 116.31088 is hereby amended to read as follows:}~~

~~116.31088 1. The association shall provide written notice to each unit's owner of a meeting at which the commencement of a civil action is to be considered at least 21 calendar days before the date of the meeting. Except as otherwise provided in this subsection, the association may commence a civil action only upon a vote or written agreement of the owners of units to which at least a majority of the votes of the members of the association are allocated. The provisions of this subsection do not apply to a civil action that is commenced:~~

- ~~(a) To enforce the payment of an assessment;~~
- ~~(b) To enforce the declaration, bylaws or rules of the association;~~
- ~~(c) To enforce a contract with a vendor;~~
- ~~(d) To proceed with a counterclaim; or~~

~~(e) To protect the health, safety and welfare of the members of the association [.] , except that the provisions of this paragraph do not apply to the commencement of an action for a constructional defect pursuant to NRS 40.600 to 40.605, inclusive. If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the approval by the executive board of the commencement of the civil action must be ratified, within 90 days after the date on which the executive board approves the commencement of the civil action , by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of~~

~~the association are allocated. If the association [, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify such a civil action,] fails to ratify the approval by the executive board of the commencement of the civil action within the required period, the association [may] must thereafter seek to dismiss the action without prejudice. [for that reason only if a vote of written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated was obtained at the time the approval to commence or ratify the action was sought.]~~

~~2. At least 10 days before an association commences or seeks to ratify the commencement of a civil action, the association shall provide a written statement to all the units' owners that includes:~~

~~(a) A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;~~

~~(b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and~~

~~(c) All disclosures that are required to be made upon the sale of the property.~~

~~3. No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.~~

~~4. If any civil action in which the association is a party is settled, the executive board shall disclose the terms and conditions of the settlement at the next regularly scheduled meeting of the executive board after the settlement has been reached. The executive board may not approve a settlement which contains any terms and conditions that would prevent the executive board from complying with the provisions of this subsection.]~~

~~(Deleted by amendment.)~~

Sec. 21. 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.*

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. 22. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541, 87A.560 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required pursuant to this section to the Administrator if they are not paid by the master association.

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed \$3 per unit.

4. The Division shall impose an administrative penalty against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or master association or \$500, whichever amount is less. The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to both an association and a master association.

6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.

7. A master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by an association that is subject to the governing documents of the master association.

8. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association or master association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

9. *Any person, association or master association which has been requested or required to pay any fees, administrative penalties or interest pursuant to this section and which believes that such fees, administrative penalties or interest has been imposed in error may, without exhausting any available administrative remedies, bring an action in a court of competent jurisdiction to recover:*

*(a) Any amount paid in error for any fees, administrative penalties or interest during the immediately preceding 3 years;*

*(b) Interest on the amount paid in error at the rate set forth in NRS 99.040; and*

*(c) Reasonable costs and attorney's fees.*

Sec. 23. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

↪ The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

10. *The association must obtain approval from the Commission before attempting to foreclose its lien pursuant to the provisions of NRS 116.31162 to 116.31168, inclusive.*

Sec. 24. NRS 116.31183 is hereby amended to read as follows:

116.31183 1. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

~~1.~~ (a) Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

(b) Recommended the selection or replacement of an attorney, community manager or vendor, unless such a selection or replacement would constitute a material breach of an existing contract; or

~~{2.}~~ (c) Requested in good faith to review the books, records or other papers of the association.

2. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not intentionally interfere with the exercise of any right conferred on a person pursuant to the provisions of this chapter.

Sec. 25. 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. 26. NRS 116.325 is hereby amended to read as follows:

116.325 1. The executive board shall not and the governing documents must not prohibit a unit's owner or an occupant of a unit from exhibiting ~~political sign~~ *one or more political signs* within such physical portion of the common-interest community as that owner or occupant has a right to occupy and use exclusively ~~if the political sign is~~ *and on any wall which is a common element or limited common element and which is immediately adjacent to the unit, subject to the following conditions:*

(a) All political signs exhibited must not be larger than 24 inches by 36 inches.

(b) If the unit is occupied by a tenant, the unit's owner may not exhibit any political sign unless the tenant consents, in writing, to the exhibition of the political sign.

(c) If any political sign is exhibited on a wall which is a common element or limited common element, the political sign:

(1) Must be exhibited in a manner that does not damage the wall; and

(2) *Is subject to any applicable provisions of law governing the posting of political signs.*

2. The provisions of this section establish the minimum rights of a unit's owner or an occupant of a unit to exhibit ~~the~~ political ~~signs~~ signs. The provisions of this section do not preempt any provisions of the governing documents that provide greater rights and do not require the governing documents or the executive board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.

3. *Any provision in a rental agreement which violates the provisions of this section or which requires a tenant to waive any rights pursuant to this section or other provisions of law is void as against public policy.*

4. As used in this section, "political sign" means a sign that expresses support for or opposition to a candidate, political party or ballot question ~~in~~ in any federal, state or local election or any election of an association.

Sec. 27. NRS 116.330 is hereby amended to read as follows:

116.330 1. The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, *including, without limitation, the front yard or back yard of the unit's owner,* except that:

(a) Before installing drought tolerant landscaping, the unit's owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and

(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

↪ *The provisions of this subsection must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.*

2. Installation of drought tolerant landscaping within any common element or conversion of traditional landscaping or cultivated vegetation, such as turf grass, to drought tolerant landscaping within any common element shall not be deemed to be a change of use of the common element unless:

(a) The common element has been designated as a park, open play space or golf course on a recorded plat map; or

(b) The traditional landscaping or cultivated vegetation is required by a governing body under the terms of any applicable zoning ordinance, permit or approval or as a condition of approval of any final subdivision map.

3. As used in this section, "drought tolerant landscaping" means landscaping which conserves water, protects the environment and is adaptable to local conditions. *The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.*

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 shall 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. 29. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. ~~HF~~ Subject to the requirements set forth in subsection 2, if a declarant, member of an executive board, officer of an association, community manager or any other person subject to this chapter fails or refuses to comply with any of its provisions or any provision of the ~~declaration or bylaws,~~ governing documents of an association, any person or class of persons suffering actual damages from the failure or refusal to comply ~~has a claim~~ may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages ~~caused by~~ or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

- (1) A declarant; ~~or~~
- (2) A member of the executive board;
- (3) An officer of the association;
- (4) A community manager; or
- (5) A unit's owner.

(b) By a unit's owner against:

- (1) The association;
- (2) A declarant; or
- (3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against:

- (1) A member of the executive board;
- (2) An officer of the association; or
- (3) A community manager.

3. Punitive damages may be awarded for a willful and material failure or refusal to comply with any provision of this chapter or the governing documents of an association if the failure or refusal is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

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

Sec. 30. NRS 116.600 is hereby amended to read as follows:

116.600 1. The Commission for Common-Interest Communities and Condominium Hotels is hereby created.

2. The Commission consists of ~~five~~ seven members appointed by the Governor. The Governor shall appoint to the Commission:

(a) One member who is a unit's owner residing in this State and who has served as a member of an executive board in this State;

(b) Two members who are units' owners residing in this State but who are not required to have served as members of an executive board;

(c) One member who is in the business of developing common-interest communities in this State;

~~[(e)]~~ (d) One member who holds a certificate;

~~[(d)]~~ (e) One member who is a certified public accountant licensed to practice in this State pursuant to the provisions of chapter 628 of NRS; and

~~[(e)]~~ (f) One member who is an attorney licensed to practice in this State.

3. Each member of the Commission must be a resident of this State. At least ~~three~~ four members of the Commission must be residents of a county whose population is 400,000 or more.

4. Each member of the Commission must have resided in a common-interest community or have been actively engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of his appointment.

5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.

6. While engaged in the business of the Commission, each member is entitled to receive:

(a) A salary of not more than \$80 per day, as established by the Commission; and

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 31. NRS 116.605 is hereby amended to read as follows:

116.605 1. The Division shall *employ one or more training officers who are qualified by training and experience to provide* ~~for arrange to have provided~~ to each member of the Commission courses of instruction concerning rules of procedure and substantive law appropriate for members of the Commission. *Such courses of instruction may be made available to the staff of the Division as well as to community managers.*

2. *The training officer shall:*

(a) *Prepare and make available a manual containing the policies and procedures to be followed by executive boards and community managers; and*

(b) *Perform any other duties as directed by the Division.*

3. Each member of the Commission must attend the courses of instruction *described in subsection 1* not later than 6 months after the date that the member is first appointed to the Commission.

Sec. 32. NRS 116.675 is hereby amended to read as follows:

116.675 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. *An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.*

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 33. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. *The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure is required pursuant to subsection 2.*

2. A formal complaint filed by the Administrator with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, are public records.

Sec. 34. NRS 116.765 is hereby amended to read as follows:

116.765 1. Upon receipt of an affidavit that complies with the provisions of NRS 116.760, the Division shall *immediately* refer the affidavit to the Ombudsman.

2. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.

3. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division, *within 30 days after the affidavit is received by the Ombudsman*, a report concerning the alleged violation and any information collected by the

Ombudsman during his efforts to assist the parties to resolve the alleged violation.

4. ~~Upon~~ *Except as otherwise provided in this subsection, upon receipt of the report from the Ombudsman, the Division shall conduct and complete an investigation within 45 days to determine whether good cause exists to proceed with a hearing on the alleged violation. The Division may be granted an extension of time in which to complete an investigation if the Division obtains written approval granting such an extension from the person who is aggrieved by an alleged violation.*

5. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.

Sec. 35. NRS 116.785 is hereby amended to read as follows:

116.785 1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

- (a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.
- (b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.
- (c) Impose an administrative fine of not more than \$1,000 for each violation.

2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his office or position if the Commission or the hearing panel, after notice and hearing, finds that:

- (a) The respondent has knowingly and willfully committed a violation; and
- (b) The removal is in the best interest of the association.

3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than \$1,000 for each violation.

4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation . ~~and reasonable attorney's fees.~~

5. *In any matter brought before the Commission or a hearing panel pursuant to the provisions of this chapter, attorney's fees must not be granted to a prevailing party, regardless of whether the governing documents provide for such fees to be granted to a prevailing party.*

6. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:

- (a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and
- (b) The respondent may not be held personally liable for those fines and costs.

Sec. 36. NRS 116.790 is hereby amended to read as follows:

116.790 1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

- (a) Order an audit of the association ~~to~~, *at the expense of the association*.
- (b) Require the executive board to hire a community manager who holds a certificate.

2. The Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:

- (a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;
- (b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or
- (c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.

3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.

5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.

6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:

- (a) Take charge of the estate and effects of the association;

(b) Appoint an agent or agents;

(c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;

(d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and

(e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.

Sec. 37. NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division alleging a violation of this chapter or chapter 116 or 116B of NRS, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential. ~~and may be disclosed~~

2. *The Division shall not disclose any information that is confidential pursuant to subsection 1, in whole or in part ~~only~~, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 3 and the disclosure is required pursuant to subsection 3, except that the Division may disclose the information described in subsection 1 as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate or permit issued pursuant to this chapter.*

~~2.~~ 3. *The formal complaint or other charging documents filed by the Administrator with the Commission to initiate disciplinary action and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline are public records.*

Sec. 38. NRS 116A.300 is hereby amended to read as follows:

116A.300 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. *An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.*

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 39. 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.

(b) *Must require an applicant to post a bond in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.*

(c) May require applicants to pass an examination in order to obtain a certificate. 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.

~~{(e)}~~ (d) 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)}~~ (e) 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)}~~ (f) 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.

Sec. 40. NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation

conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party.

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission for Common-Interest Communities and Condominium Hotels approves the payment; and

(b) There is money available in the account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

5. If all the parties have agreed to nonbinding arbitration ~~[any]~~:

(a) Any party to the *nonbinding* arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. ~~[If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.]~~

(b) No party to the *nonbinding* arbitration may apply for:

- (1) A confirmation of the award pursuant to NRS 38.239;
- (2) A vacation of the award pursuant to NRS 38.241;
- (3) A judgment on the award pursuant to NRS 38.243; or

(4) Any award of attorney's fees from the arbitrator or any court pursuant to any provision of law, any court rule or any provision in the governing documents of the association, for any attorney's fees incurred as the result of the nonbinding arbitration.

6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such *binding* arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.

7. If, after the conclusion of *binding* arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

↳ the party shall, if he fails to obtain a more favorable award or judgment than that which was obtained in the initial *binding* arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

8. Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.

9. As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

Sec. 41. The Governor shall appoint to the Commission for Common-Interest Communities and Condominium Hotels pursuant to NRS 116.600, as amended by section 30 of this act:

1. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2010; and

2. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2011.

Sec. 42. The manual described in subsection 2 of NRS 116.605, as amended by section 31 of this act, must be prepared and made available by October 1, 2010.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford, Townsend and Care.

Senator Horsford requested that the following remarks be entered in the Journal.

SENATOR HORSFORD:

This is consistent with Amendment 313 that we just adopted. This amendment deletes section 20 of the bill.

SENATOR TOWNSEND:

I know it deletes section 20, but could someone explain why we are removing section 20?

SENATOR CARE:

In section 20, in the amendment we just adopted, the committee changed the language to existing law. The way it reads now, the board has 90 days to ratify. It can vote on commencement of civil litigation under chapter 40 or it has 90 days to ratify the action. What we did in committee, and what was contained in the amendment we just adopted was to say any commencement of a law suit would require a majority of the owners to vote on commencement of litigation. What the deletion of section 20 does under the amendment before us is restoring existing law. Section 20 would come out so that existing law would remain. This means that nothing changes as to the current law about commencement by an HOA of an action under chapter 40. The board would have 90 days to ratify the action.

SENATOR TOWNSEND:

If the amendment restores the current law that it would require the board in no greater than 90 days to ratify a board's action to commence, then prior to the amendment, it would have gone back to require a board to take an action before the commencement of a civil activity took place. Are we deleting that potential change?

SENATOR CARE:

The amendment before us now undoes what the committee did as to what section 20 of the bill and the amendment we just adopted would have done. The passage under chapter 116 about commencing an action under chapter 40, as current law with this amendment would remain on the books.

Motion carried on a division of the house.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 186.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 392.

"SUMMARY—Provides for the issuance of permits for the operation of ~~[motor vehicle tire recycling centers.]~~ *facilities for the management of waste tires.* (BDR 40-739)"

"AN ACT relating to solid waste management; providing for the issuance of permits for the operation of ~~[motor vehicle tire recycling centers;~~ *authorizing the imposition of fees for such permits; prohibiting the disposal of motor vehicle tires other than at a motor vehicle tire recycling center except under certain circumstances;] facilities for the management of waste tires;* providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 4 of this bill ~~[provides for the establishment of a program for the recycling of motor vehicle tires, including, without limitation,] requires the~~ *district board of health in certain counties to adopt regulations for the issuance of permits to operate [motor vehicle tire recycling centers and the imposition of fees for the permits.] facilities for the management of waste tires. Section 4 authorizes the State Environmental Commission to adopt similar regulations for other counties. If a permit for the operation of a*

facility for the management of waste tires is issued, the district board of health or the State Environmental Commission must adopt regulations prohibiting the disposal of waste tires in any municipal solid waste landfill in the health district or county in which the facility is operated. Section 5 of this bill prohibits a person from operating a ~~motor vehicle tire recycling center~~ facility for the management of waste tires unless the operator holds a permit to operate the ~~center~~ facility and complies with the terms and conditions of the permit. A person who operates a ~~tire recycling center~~ facility in violation of the provisions of section 5 is guilty of a misdemeanor and, in addition, is subject to civil penalties and injunctive relief. (NRS 444.600)

Existing law prohibits the disposal of used or waste motor vehicle tires other than disposal at a site, landfill or incinerator which has been issued a permit by the Division of Environmental Protection of the State Department of Conservation and Natural Resources or a district board of health. (NRS 444.583) Section 6 of this bill prohibits the disposal of ~~motor vehicle~~ waste tires generated in a health district or county in which a facility for the management of waste tires has been issued a permit at any ~~site other than a motor vehicle tire recycling center that has been issued a permit for the purpose of receiving, storing, processing and recycling motor vehicle tires.~~ Section 6 applies only to persons who are located within 50 miles of a motor vehicle tire recycling center municipal solid waste landfill in the State. A person who violates section 6 is guilty of a misdemeanor punishable by a fine of not less than \$100 per violation and is also subject to civil penalties and injunctive relief. (NRS 444.600, 444.635) Section 6 provides exceptions for the inadvertent or unintentional disposal of a waste tire in a municipal solid waste landfill or if the unavailability of a facility for the management of waste tires makes compliance impracticable.

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

Section 1. NRS 439.200 is hereby amended to read as follows:

439.200 1. The State Board of Health may by affirmative vote of a majority of its members adopt, amend and enforce reasonable regulations consistent with law:

- (a) To define and control dangerous communicable diseases.
- (b) To prevent and control nuisances.
- (c) To regulate sanitation and sanitary practices in the interests of the public health.
- (d) To provide for the sanitary protection of water and food supplies.
- (e) To govern and define the powers and duties of local boards of health and health officers, except with respect to the provisions of NRS 444.440 to 444.620, inclusive, *and sections 3 to 6, inclusive, of this act*, 444.650, 445A.170 to 445A.955, inclusive, and chapter 445B of NRS.
- (f) To protect and promote the public health generally.
- (g) To carry out all other purposes of this chapter.

2. Except as otherwise provided in NRS 444.650, those regulations have the effect of law and supersede all local ordinances and regulations inconsistent therewith, except those local ordinances and regulations which are more stringent than the regulations provided for in this section.

3. The State Board of Health may grant a variance from the requirements of a regulation if it finds that:

(a) Strict application of that regulation would result in exceptional and undue hardship to the person requesting the variance; and

(b) The variance, if granted, would not:

(1) Cause substantial detriment to the public welfare; or

(2) Impair substantially the purpose of that regulation.

4. Each regulation adopted by the State Board of Health must be published immediately after adoption and issued in pamphlet form for distribution to local health officers and the residents of the State.

Sec. 2. Chapter 444 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. ~~“Motor vehicle tire recycling center” means an approved site for receiving, storing, processing and recycling motor vehicle tires which has been issued a permit for that purpose by the solid waste management authority.~~ “Facility for the management of waste tires” means a site at which waste tires are deposited for processing, recycling or use as a fuel and which has been issued a permit for that purpose pursuant to the regulations adopted pursuant to section 4 of this act.

Sec. 3.3. “Passenger car” has the meaning ascribed to it in NRS 482.087.

Sec. 3.7. “Waste tire” means a passenger car tire that is not suitable for its intended purpose because of wear, damage or defect.

Sec. 4. 1. ~~The [State Environmental Commission and the] district board of health of a health district created pursuant to NRS 439.362 or 439.370 shall, in a timely manner, adopt full regulations that are necessary to establish and carry out a program for the recycling of motor vehicle tires, including, without limitation, the issuing of permits for the operation of motor vehicle tire recycling centers and the imposition of fees for the permits.~~

~~2.] regulations:~~

(a) For the issuance of a permit to operate a facility for the management of waste tires in the health district and in any area over which the board has authority pursuant to an interlocal agreement;

(b) If the district board of health issues a permit to operate a facility for the management of waste tires, prohibiting the disposal of waste tires in any municipal solid waste landfill in the health district and in any area over which the board has authority pursuant to an interlocal agreement by a retail seller of new motor vehicles tires or a wholesale seller of new motor vehicle tires; and

(c) To establish and carry out a program for the recycling and reuse of waste tires in the health district and in any area over which the board has authority pursuant to an interlocal agreement.

2. The regulations adopted pursuant to subsection 1 must:

(a) Provide for acceptable alternatives to the disposal of a waste tire in a municipal solid waste landfill;

(b) Provide for the inspection of a facility for the management of waste tires to ensure that the operator of the facility complies with those regulations;

(c) Prohibit a facility for the management of waste tires from refusing to accept a waste tire offered for disposal, except in accordance with the provisions of the permit issued to the operator of the facility;

(d) Establish requirements concerning the transportation and storage of waste tires prior to disposal;

(e) Establish a procedure for applications for exemptions or waivers from any of those regulations;

(f) Provide for an exemption from any penalty imposed pursuant to those regulations for any person who inadvertently or unintentionally disposes of a waste tire in a municipal solid waste landfill in violation of those regulations;

(g) Not prohibit the lawful disposal of a waste tire outside of the health district; and

(h) In addition to the penalties described in sections 5 and 6 of this act, provide for a penalty for a violation of any of those regulations.

3. In a county in which a health district has not been created pursuant to NRS 439.362 or 439.370, the State Environmental Commission may adopt regulations:

(a) Authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to issue a permit for the operation of a facility for the management of waste tires in the county;

(b) If a facility for the management of waste tires has been issued a permit in the county, prohibiting the disposal of waste tires in a municipal solid waste landfill in the county; and

(c) To establish and carry out a program for the recycling and reuse of waste tires in the county.

4. Any regulation adopted pursuant to this section which prohibits the disposal of a waste tire in a municipal solid waste landfill does not apply to the disposal of a waste tire if the unavailability of a facility for the management of waste tires makes disposal at such a facility impracticable. The provisions of this subsection do not exempt a person from any other regulation adopted pursuant to this section.

5. The regulations adopted by a district board of health pursuant to this section must not conflict with regulations adopted by the State Environmental Commission.

Sec. 5. 1. A person shall not operate a ~~motor vehicle tire recycling center~~ facility for the management of waste tires unless the operator:

(a) Holds a permit to operate the ~~motor vehicle tire recycling center~~ facility for the management of waste tires issued by the ~~solid waste management authority~~ district board of health or the Division of Environmental Protection of the State Department of Conservation and Natural Resources in accordance with the regulations adopted pursuant to section 4 of this act; and

(b) Complies with the terms and conditions of the permit.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. Each day or part of a day during which the violation is continued or repeated constitutes a separate offense.

4. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive:

(a) A person convicted of violating subsection 1 is, in addition to any criminal penalty imposed, liable for a civil penalty upon each such conviction; and

(b) A court before whom a defendant is convicted of a violation of subsection 1 shall, for each violation, order the defendant to pay a civil penalty of at least \$500 but not more than \$5,000.

Sec. 6. 1. Except as otherwise provided in subsection 2, ~~no person shall dispose of a motor vehicle tire at any site other than a motor vehicle tire recycling center.~~

~~2. The provisions of subsection 1 do not apply to a person who is located more than 50 miles from a motor vehicle tire recycling center.~~

~~3. A person who violates the provisions of this section} in any health district created pursuant to NRS 439.362 or 439.370 and any area over which the district board of health has authority pursuant to an interlocal agreement or any county in which a permit for the operation of a facility for the management of waste tires has been issued pursuant to section 4 of this act, a person who willfully disposes of a waste tire generated in that health district or county in any municipal solid waste landfill in this State is guilty of a misdemeanor and, except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, shall be punished by a fine of not less than \$100 per violation. Each waste tire disposed of in violation of the provisions of this section constitutes a separate violation.~~

~~2. The provisions of subsection 1 do not apply:~~

~~(a) To a person who inadvertently or unintentionally disposes of a waste tire in a municipal solid waste landfill in violation of the provisions of subsection 1; or~~

~~(b) If the unavailability of a facility for the management of waste tires makes disposal of a waste tire at a site other than a municipal solid waste landfill impracticable.~~

Sec. 7. NRS 444.450 is hereby amended to read as follows:

444.450 As used in NRS 444.440 to 444.620, inclusive, *and sections 3 to 6, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 444.460 to 444.500, inclusive, *and ~~section 3~~ sections 3, 3.3 and 3.7 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 444.495 is hereby amended to read as follows:

444.495 "Solid waste management authority" means:

1. The district board of health in any area in which a health district has been created pursuant to NRS 439.362 or 439.370 and in any area over which the board has authority pursuant to an interlocal agreement, if the board has adopted all regulations that are necessary to carry out the provisions of NRS 444.440 to 444.620, inclusive ~~[ ]~~, *and sections 3 to 6, inclusive, of this act*.

2. In all other areas of the State, the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 9. NRS 444.570 is hereby amended to read as follows:

444.570 1. The State Department of Conservation and Natural Resources shall:

(a) Advise, consult and cooperate with other agencies and commissions of the State, other states, the Federal Government, municipalities and persons in the formulation of plans for and the establishment of any solid waste management system.

(b) Accept and administer loans and grants from any person that may be available for the planning, construction and operation of solid waste management systems.

(c) Enforce the provisions of NRS 444.440 to 444.560, inclusive, *and sections 3 to 6, inclusive, of this act*, and any regulation adopted by the State Environmental Commission pursuant thereto.

(d) Periodically review the programs of other solid waste management authorities in the State for issuing permits pursuant to NRS 444.553 and 444.556 *and section 4 of this act* and ensuring compliance with the terms and conditions of such permits, the regulations of the State Environmental Commission, the laws of this State and the provisions of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6941 et seq., and the regulations adopted pursuant thereto. The Director of the State Department of Conservation and Natural Resources shall review the adequacy of such programs in accordance with the standards adopted by the United States Environmental Protection Agency to review the adequacy of the state program. If the Director determines that a program is inadequate, the Department shall act as the solid waste management authority until the deficiency is corrected. A finding by the Director that a program is inadequate is not final until reviewed by the State Environmental Commission. This paragraph does not limit the authority or responsibility of a district board of health to issue permits for disposal sites and enforce the laws of this State regarding solid waste management systems.

(e) Make such investigations and inspections and conduct such monitoring and testing as may be necessary to require compliance with NRS 444.450 to 444.560, inclusive, *and sections 3 to 6, inclusive, of this act* and any regulation adopted by the State Environmental Commission.

2. The State Environmental Commission shall:

(a) In cooperation with governing bodies of municipalities, develop a statewide solid waste management system plan, and review and revise the plan every 5 years.

(b) Examine and approve or disapprove plans for solid waste management systems.

(c) Review any determination by the Director of the State Department of Conservation and Natural Resources that a program for issuing permits administered by a solid waste management authority is inadequate. The Commission may affirm, modify or reverse the findings of the Director.

3. Employees of the State Department of Conservation and Natural Resources or its authorized representatives may, during the normal hours of operation of a facility subject to the provisions of NRS 444.440 to 444.620, inclusive, *and sections 3 to 6, inclusive, of this act* enter and inspect areas of the facility where:

(a) Solid waste may have been generated, stored, transported, treated or disposed; or

(b) Records are kept, and may inspect and copy any records, reports, information or test results relating to the management of the solid waste.

Sec. 10. NRS 444.580 is hereby amended to read as follows:

444.580 1. Any district board of health created pursuant to NRS 439.362 or 439.370 and any governing body of a municipality may adopt standards and regulations for the location, design, construction, operation and maintenance of solid waste disposal sites and solid waste management systems or any part thereof more restrictive than those adopted by the State Environmental Commission, and any district board of health may issue permits thereunder.

2. Any district board of health created pursuant to NRS 439.362 or 439.370 may adopt such other regulations as are necessary to carry out the provisions of NRS 444.440 to 444.620, inclusive ~~[-]~~, *and sections 3 to 6, inclusive, of this act*. Such regulations must not conflict with regulations adopted by the State Environmental Commission.

Sec. 11. NRS 444.583 is hereby amended to read as follows:

444.583 1. Except as otherwise provided in subsection 5 ~~[-]~~ *and section 6 of this act*, it is unlawful willfully to:

(a) Dispose of, abandon or dump a motor vehicle battery, motor vehicle tire or motor oil at any site which has not been issued a permit for that purpose by the solid waste management authority;

(b) Dispose of, abandon or dump a motor vehicle battery, motor vehicle tire or motor oil at a sanitary landfill or other disposal site established by a

municipality which has not been issued a permit for that purpose by the solid waste management authority; or

(c) Incinerate a motor vehicle battery or motor vehicle tire as a means of ultimate disposal, unless the incineration is approved by the solid waste management authority for the recovery of energy or other appropriate use.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor and except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, shall be punished by a fine of not less than \$100 per violation.

3. The State Department of Conservation and Natural Resources shall establish a plan for the appropriate disposal of used or waste motor vehicle batteries, motor vehicle tires and motor oil. The plan must include the issuance of permits to approved sites or facilities for the disposal of those items by the public. The plan may include education of the public regarding the necessity of disposing of these items properly and recycling them.

4. The State Department of Conservation and Natural Resources shall encourage the voluntary establishment of authorized sites which are open to the public for the deposit of used or waste motor vehicle batteries, motor vehicle tires and motor oil.

5. The provisions of subsections 1 and 2 do not apply to the disposal of used or waste motor vehicle batteries or motor vehicle tires if the unavailability of a site that has been issued a permit by the solid waste management authority makes disposal at such a site impracticable. The provisions of this subsection do not exempt a person from any other regulation of the solid waste management authority concerning the disposal of used or waste motor vehicle batteries or motor vehicle tires.

Sec. 12. NRS 444.592 is hereby amended to read as follows:

444.592 If the solid waste management authority receives information that the handling, storage, recycling, transportation, treatment or disposal of any solid waste presents or may present a threat to human health, public safety or the environment, or is in violation of a term or condition of a permit issued pursuant to NRS 444.553 or 444.556, *or section 4 of this act*, a statute, a regulation or an order issued pursuant to NRS 444.594, the authority may, in addition to any other remedy provided in NRS 444.440 to 444.620, inclusive ~~{-}~~, *and sections 3 to 6, inclusive, of this act*:

1. Issue an order directing the owner or operator of the disposal site or any other site where the handling, storage, recycling, transportation, treatment or disposal has occurred or may occur, or any other person who has custody of the solid waste, to take such steps as are necessary to prevent the act or eliminate the practice which constitutes the threat or violation.

2. Commence an action in a court of competent jurisdiction to enjoin the act or practice which constitutes the threat or violation in accordance with the provisions of NRS 444.600.

3. Take any other action designed to reduce or eliminate the threat or violation.

Sec. 13. NRS 444.594 is hereby amended to read as follows:

444.594 1. An order issued by a solid waste management authority must:

(a) Specify the term or condition of a permit issued pursuant to NRS 444.553 or 444.556, *or section 4 of this act*, or the statute or regulation, which is alleged to have been violated or which is about to be violated, or the threat to human health, public safety or the environment;

(b) Set forth the facts alleged to constitute the violation or threat; and

(c) Prescribe any corrective action which must be taken and a reasonable time within which it must be taken.

2. The order may require the person to whom the order is directed to appear before the solid waste management authority, its authorized representative [ ] or a hearing officer appointed by the authority, to show cause why an action should not be commenced against the person in a court of competent jurisdiction requesting appropriate relief.

Sec. 14. NRS 444.596 is hereby amended to read as follows:

444.596 The solid waste management authority may bring an action in a court of competent jurisdiction to recover from a person or municipality which violates any statute or regulation, any term or condition of a permit issued pursuant to NRS 444.553 or 444.556, *or section 4 of this act*, or any order issued pursuant to NRS 444.592, a civil penalty of not more than \$5,000 for each day on which the violation occurs. This penalty is in addition to any other penalty provided in NRS 444.440 to 444.620, inclusive [ ], *and sections 3 to 6, inclusive, of this act*.

Sec. 15. NRS 444.598 is hereby amended to read as follows:

444.598 The solid waste management authority may bring an action in a court of competent jurisdiction to recover actual damages which result from a violation of a statute or regulation, any term or condition of a permit issued pursuant to NRS 444.553 or 444.556, *or section 4 of this act*, or any order issued pursuant to NRS 444.592. The damages may include expenses incurred by the authority in testing for and removing, correcting or terminating any adverse effects which resulted from the violation and costs and attorney's fees, including those incurred in administrative proceedings. This remedy is in addition to any other remedy provided in NRS 444.440 to 444.620, inclusive [ ], *and sections 3 to 6, inclusive, of this act*.

Sec. 16. NRS 444.600 is hereby amended to read as follows:

444.600 In addition to any other remedies provided in NRS 444.450 to 444.590, inclusive, *and sections 3 to 6, inclusive, of this act*, the State Department of Conservation and Natural Resources or a solid waste management authority may bring an action in a court of competent jurisdiction to enjoin a violation of NRS 444.450 to 444.560, inclusive, *and sections 3 to 6, inclusive, of this act*, any term or condition of a permit issued pursuant to NRS 444.553 or 444.556, *or section 4 of this act*, any order issued pursuant to NRS 444.592, or any regulation adopted by the State Environmental Commission or solid waste management authority.

Sec. 17. NRS 444.605 is hereby amended to read as follows:

444.605 1. In carrying out the provisions of NRS 444.440 to 444.620, inclusive, *and sections 3 to 6, inclusive, of this act*, the State Environmental Commission, a district board of health of a health district created pursuant to NRS 439.362 or 439.370, and a solid waste management authority may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary.

2. If any person to whom a subpoena has been directed pursuant to subsection 1 refuses to attend, testify or produce any evidence specified in the subpoena, the person who issued the subpoena may present a petition, to a court of competent jurisdiction where the person to whom the subpoena was directed is subject to service of process, setting forth that:

(a) Notice has been given of the time and place at which the person was required to attend, testify or produce evidence;

(b) A subpoena has been mailed to or personally served on the witness or custodian of the evidence in sufficient time to enable him to comply with its provisions; and

(c) The person has failed or refused to attend, answer questions or produce evidence specified in the subpoena,

↪ and asking that the court issue an order compelling the person to attend and to testify or produce the evidence specified in the subpoena.

3. When a court receives a petition pursuant to subsection 2, it shall order the person to whom the subpoena was directed to appear at a time and place fixed by the court in its order, which must be not more than 10 days after the date of the order, and show cause why he should not be held in contempt. A certified copy of the order must be mailed to or personally served on the person to whom the subpoena was directed.

4. If it appears to the court that the subpoena was properly issued and that the person's failure or refusal to appear, answer questions or produce evidence was without sufficient reason, the court shall order the person to appear at a time and place fixed by the court and to testify or produce the specified evidence. If the person fails to comply with the order of the court, he may be punished as for a contempt of court.

Sec. 18. NRS 444.629 is hereby amended to read as follows:

444.629 1. The solid waste management authority in each county whose population is 400,000 or more may establish a program for the control of unlawful dumping and administer the program within its jurisdiction unless superseded.

2. The program established pursuant to subsection 1 must:

(a) Include standards and procedures for the control of unlawful dumping which are equivalent to or stricter than those established by statute or state regulation; and

(b) Provide for adequate administration and enforcement.

3. In a county whose population is 400,000 or more, the solid waste management authority may delegate to an independent hearing officer or hearing board the authority to determine violations and levy administrative penalties for violations of the provisions of NRS 444.440 to 444.645, inclusive, *and sections 3 to 6, inclusive, of this act* or any regulation adopted pursuant to those sections.

Sec. 19. NRS 444.635 is hereby amended to read as follows:

444.635 1. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a person convicted of violating NRS 444.555 and, in addition to the penalty imposed pursuant to NRS 444.583 or 444.630, *or section 6 of this act*, any person convicted of violating NRS 444.583 or 444.630 *or section 6 of this act* is liable for a civil penalty upon each such conviction.

2. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a court before whom a defendant is convicted of a violation of the provisions of NRS 444.555, 444.583 or 444.630, *or section 6 of this act*, shall order the defendant:

(a) For a first offense, to pay a civil penalty which is at least \$500 but not more than \$5,000.

(b) For a second offense, to pay a civil penalty which is at least \$1,000 but not more than \$5,500.

(c) For a third offense, to pay a civil penalty which is at least \$1,500 but not more than \$6,000.

(d) For any subsequent offense, to pay a civil penalty which is at least \$500 more than the most recent previous civil penalty that the defendant was ordered to pay pursuant to this subsection.

3. If so provided by the court, a penalty imposed pursuant to this section may be paid in installments.

4. The solid waste management authority may attempt to collect all such penalties and installments which are in default in any manner provided by law for the enforcement of a judgment.

5. Each court which receives money pursuant to the provisions of this section shall forthwith remit the money to the Division of Environmental Protection of the State Department of Conservation and Natural Resources or, if the health authority initiated the action, the district health department which shall deposit the money with the State Treasurer for credit in a separate account in the State General Fund or with the county treasurer for deposit in an account for the district health department, as the case may be. Money so deposited must be:

(a) Used only to pay:

(1) Rewards pursuant to NRS 444.640;

(2) For education regarding the unlawful disposal of solid waste;

(3) For the cleaning up of dump sites; and

(4) For the management of solid waste; and

(b) Paid as other claims against the State or local governments are paid.

Sec. 20. NRS 444A.020 is hereby amended to read as follows:

444A.020 1. The State Environmental Commission shall adopt regulations establishing minimum standards for:

(a) Separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided.

(b) Establishing recycling centers for the collection and disposal of recyclable material.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.

2. The regulations adopted pursuant to subsection 1 must be adopted with the goal of recycling at least 25 percent of the total solid waste generated within a municipality after the second full year following the adoption of such standards.

3. The State Environmental Commission shall, by regulation, establish acceptable methods for disposing of used or waste tires ~~+~~ *consistent with the provisions of sections 4, 5 and 6 of this act.*

Sec. 21. NRS 445C.030 is hereby amended to read as follows:

445C.030 "Environmental requirement" means a requirement contained in NRS 444.440 to 444.645, inclusive, *and sections 3 to 6, inclusive, of this act*, 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, 459.400 to 459.600, inclusive, 459.700 to 459.856, inclusive, or 519A.010 to 519A.280, inclusive, or in a regulation adopted pursuant to any of those sections.

Sec. 22. NRS 445C.060 is hereby amended to read as follows:

445C.060 "Regulatory agency" means:

1. The State Environmental Commission;

2. The State Department of Conservation and Natural Resources or the Division of Environmental Protection of that Department;

3. A district board of health acting as a solid waste management authority pursuant to NRS 444.440 to 444.620, inclusive ~~+~~, *and sections 3 to 6, inclusive, of this act*; or

4. A district board of health, county board of health or board of county commissioners administering a program for the control of air pollution pursuant to paragraph (a) of subsection 1 of NRS 445B.500.

Sec. 23. This act becomes effective upon passage and approval for the purpose of adopting regulations, and on October 1, 2009, for all other purposes.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

Senator Copening requested that her remarks be entered in the Journal.

This amendment changes the names and definitions of the facilities related to tire recycling centers, and it changes the responsibilities of the State Environmental Commission and local health districts. Finally, the amendment provides an exception to the penalties in the bill for an inadvertent or unintentional violation of the provisions for recycling tires.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 229.

Bill read second time.

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

Amendment No. 259.

"SUMMARY—Establishes the Physician Visa Waiver Program in the Health Division of the Department of Health and Human Services. (BDR 40-368)"

"AN ACT relating to health care; establishing the Physician Visa Waiver Program in the Health Division of the Department of Health and Human Services; requiring the Program to provide for the oversight of employers and applicants for J-1 visa waivers in this State, evaluate requests for letters of support and issue such letters; requiring the State Board of Health to adopt regulations providing for the administration of the Program, establishing an application fee for a letter of support and establishing penalties for certain violations by applicants ~~for~~ *and employers*; providing immunity from civil and criminal liability for a person who reports or provides information concerning a violation of the Program to a governmental entity; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

A J-1 visa is a nonimmigrant visa available to certain aliens who are designated "exchange visitors." Certain classes of J-1 visas, including J-1 visas issued to foreign medical graduates, require that the alien return to his home country or country of last permanent residence for a period of 2 years after his completion of J-1 status. The 2-year foreign residence requirement may be waived by the Federal Government under certain circumstances. One condition for the issuance of such a waiver is that a letter of support stating that the waiver is in the public interest must be issued to the Waiver Review Division of the United States Department of State by the state health department of the state in which the foreign medical graduate will work. (8 U.S.C. §§ 1182(e), 1184(l); 22 C.F.R. § 41.63)

Section 10 of this bill establishes the Physician Visa Waiver Program in the Health Division of the Department of Health and Human Services. The Administrator of the Division is charged with administering the Program which must: (1) provide for the oversight of employers and physicians who apply for J-1 visa waivers in this State; (2) evaluate applications for letters of support submitted by J-1 visa physicians; and (3) issue letters of support. Section 10 requires the State Board of Health to adopt regulations providing for the administration of the Program and establishing application fees for letters of support.

Section 11 of this bill requires a physician who applies for a J-1 visa waiver or his employer to apply to the Program for a letter of support in the

manner prescribed by the State Board of Health. The application must include a copy of the contract entered into between the physician and the employer. The Program may issue a letter of support to the physician: (1) if the Program finds that the waiver is in the public interest; (2) if the contract complies with certain requirements; and (3) upon payment of the application fee.

Section 12 of this bill provides that, in addition to any other penalty prescribed by law, a J-1 visa physician who does not provide the required minimum hours of health services required by Federal law, refuses to provide health services to medically underserved persons in this State or violates any provision of state law governing physicians or the provision of health services is subject to penalties prescribed by the State Board of Health by regulation. Section 12 also provides that, in addition to any other penalty prescribed by law, an employer who employs a J-1 visa physician in a manner other than that specified in the physician's contract, violates any provision of this bill or the regulations adopted pursuant thereto or violates any provision of state law governing physicians or the provision of health services is subject to penalties prescribed by the State Board of Health by regulation. Section 13 of this bill provides immunity from criminal and civil liability for any person who reports a violation of the provisions of this bill to a governmental entity.

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

Section 1. Chapter 439A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *As used in sections 2 to 13, inclusive, of this act, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Administrator" means the Administrator of the Division.*

Sec. 4. *"Division" means the Health Division of the Department.*

Sec. 5. *"Employer" means a person who sponsors a J-1 visa physician and enters into a contract with the J-1 visa physician.*

Sec. 6. *"J-1 visa physician" means a foreign medical graduate who:*

1. *Has an offer of full-time employment at a health facility in an area designated by the Federal Government as a health care professional shortage area or at a health facility which serves patients from such a designated area, and agrees to begin employment at that facility within 90 days after receiving a J-1 visa waiver;*

2. *Signs a contract to continue to work at that health facility for a total of 40 hours per week for not less than 3 years; ~~and~~*

3. *Applies for or has been issued a license to practice medicine pursuant to chapter 630 of NRS; and*

4. *Applies for a J-1 visa waiver.*

Sec. 7. "J-1 visa waiver" means a waiver of the 2-year foreign residence requirement authorized pursuant to 8 U.S.C. § 1182(e) for a physician who holds a J-1 visa.

Sec. 8. "Letter of support" means a letter issued by the Program to the Waiver Review Division of the United States Department of State stating that a request for a J-1 visa waiver is in the public interest.

Sec. 9. "Program" means the Physician Visa Waiver Program established by section 10 of this act.

Sec. 10. 1. The Physician Visa Waiver Program is hereby established in the Division. The Administrator shall administer the Program consistent with federal law and the provisions of sections 2 to 13, inclusive, of this act and the regulations adopted pursuant thereto. The Program must:

(a) Provide for the oversight of employers and J-1 visa physicians in this State;

(b) Evaluate applications for letters of support submitted pursuant to section 11 of this act; and

(c) Issue letters of support.

2. The State Board of Health shall adopt regulations:

(a) Providing for the administration of the Program; and

(b) Establishing an application fee, not to exceed \$500, payable to the Program by an employer or J-1 visa physician who applies for a letter of support pursuant to section 11 of this act.

3. Any application fees collected by the Program are not refundable and must be deposited in the State Treasury and accounted for separately in the State General Fund. Any interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of a fiscal year does not revert to the State General Fund. All claims against the account must be paid as other claims against the State are paid. The money in the account must be used to pay the costs of administering the Program and for training and educating J-1 visa physicians and employers.

4. The Division is hereby designated as the agency of this State to cooperate with the Federal Government in the administration of the Program.

Sec. 11. 1. An employer or J-1 visa physician who seeks a letter of support from the Division must:

(a) Apply to the Program for a letter of support in the manner prescribed by the State Board of Health; ~~and~~

(b) Include with the application proof satisfactory to the Division that the J-1 visa physician is licensed to practice medicine pursuant to chapter 630 of NRS or has submitted an application for a license to practice medicine pursuant to chapter 630 of NRS; and

(c) Include with the application a copy of the contract entered into by the employer and the J-1 visa physician.

2. The contract entered into by the employer and the J-1 visa physician:

(a) Must comply with:

- (1) All applicable provisions of federal law; and
- (2) The regulations adopted by the State Board of Health pursuant to sections 2 to 13, inclusive, of this act.

(b) Must not include:

(1) A noncompete clause or restrictive covenant that prevents or discourages the J-1 visa physician from continuing to practice after the term of the contract expires; or

(2) Any provision authorizing termination without cause.

3. The Program may provide a letter of support to a J-1 visa physician:

- (a) If the Program determines that the waiver is in the public interest;
- (b) If the contract entered into by the employer and the J-1 visa physician complies with the provisions of this section; and
- (c) Upon payment of the prescribed application fee.

Sec. 12. 1. In addition to any other penalty prescribed by law ~~§ 12-12~~:

(a) A J-1 visa physician who:

~~§ 12-12~~ (1) Does not provide the required minimum hours of health services in an area designated by the Federal Government as a health care professional shortage area;

~~§ 12-12~~ (2) Refuses to provide health services to medically underserved persons in this State; or

~~§ 12-12~~ (3) Violates any provision of state law governing physicians or the provision of health services ~~§ 12-12~~; or

(b) An employer who:

(1) Employs a J-1 visa physician in a manner other than that specified in the contract entered into by the employer and the J-1 visa physician;

(2) Violates any provision of sections 2 to 13, inclusive, of this act or any regulation adopted pursuant thereto; or

(3) Violates any provision of state law governing physicians or the provision of health services.

↪ is subject to the penalty prescribed by the State Board of Health pursuant to subsection 2.

2. The State Board of Health shall adopt regulations establishing:

- (a) The procedure for reporting a violation of this section; and
- (b) The penalty for any violation of this section.

Sec. 13. A person who reports or provides any information concerning a violation of sections 2 to 13, inclusive, of this act or any regulation adopted pursuant thereto to a governmental entity is immune from any civil or criminal liability for that action.

Sec. 14. This act becomes effective on July 1, 2009.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton and Washington.

Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CARLTON:

Amendment No. 259 to Senate Bill No. 229 provides that, in addition to any other penalty prescribed by law, an employer who employs a J-1 Visa physician in a manner other than that specified in the physicians contract, violates any provisions of this measure, or any provisions of state law governing physicians or the provisions of health services is subject to penalties prescribed by the State Board of Health by regulation.

SENATOR WASHINGTON:

Will this provision make J-1 Visas simpler to obtain?

SENATOR CARLTON:

I do not think it will make it simpler. There will be more oversight to ensure that services actually get to where they are supposed to be. I do believe it will make it a more streamlined application because it will all be housed within the same division in order to get the application completed.

SENATOR WASHINGTON:

Regarding these J-1 Visas, when you say streamlined, does it expedite the process so that the length of time for the applicants to receive the J-1 Visas may be shortened so they may take up their practice sooner?

SENATOR CARLTON:

To the extent the State has control over that, yes, they are allowed to do the licensure in conjunction with the application so that both can run concurrently rather than consecutively. There are still federal guidelines we have to comply with. We are trying to help the State get them on the ground serving people quicker.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 239.

Bill read second time.

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

Amendment No. 317.

"SUMMARY—Provides for greater coordination of Nevada's economic development and workforce development goals. (BDR 18-1080)"

"AN ACT relating to state departments; providing for greater coordination of Nevada's economic development and workforce development goals; requiring the Department of Employment, Training and Rehabilitation to adopt regulations regarding small business investment companies and a small business investment credit; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section ~~1.3~~ 1.3 of this bill requires the Governor's Workforce Investment Board to establish industry sector councils to identify job training and education programs to best meet regional economic development goals. Section ~~1.3~~ 1.3 also requires the Board to identify and seek federal funding to provide grants to fund those job training and education programs.

Section 1.7 of this bill requires the Department of Employment, Training and Rehabilitation to adopt regulations for a program for a small business investment credit and a small business investment company.

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

Section 1. Chapter 232 of NRS is hereby amended by adding thereto ~~the new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. 1. In appointing members of the Governor's Workforce Investment Board, the Governor shall ensure that the membership as a whole represents:

(a) Industry sectors which are essential to this State and which are driven primarily by demand;

(b) Communities and areas of economic development which are essential to this State; and

(c) The diversity of the workforce of this State, including, without limitation, geographic diversity and the diversity within regions of this State.

2. The Governor's Workforce Investment Board shall:

(a) Identify:

(1) Industry sectors which are essential to this State; and

(2) The region or regions of this State where the majority of the operations of each of those industry sectors is conducted; and

(b) Establish:

(1) Regional goals for economic development for each of the industry sectors identified pursuant to paragraph (a); and

(2) A council for each industry sector.

(c) Consider and develop programs to promote:

(1) Strategies to improve labor markets for industries and regions of this State, including, without limitation, improving the availability of relevant information;

(2) Coordination of the efforts of relevant public and private agencies and organizations;

(3) Strategies for providing funding as needed by various industry sectors;

(4) Increased production capacities for various industry sectors;

(5) The development of useful measurements of performance and outcomes in various industry sectors;

(6) Participation by and assistance from state and local government agencies;

(7) Expanded market penetration, including, without limitation, by providing assistance to employers with small numbers of employees;

(8) Partnerships between labor and management;

(9) Business associations;

(10) The development of improved instructional and educational resources for employers and employees; and

(11) The development of improved economies of scale, as applicable, in industry sectors.

~~2.1~~ 3. Each industry sector council established pursuant to subparagraph (2) of paragraph (b) of subsection ~~1.1~~ 2:

(a) Must be composed of representatives from:

(1) Employers within that industry;

(2) Organized labor within that industry; ~~and~~

(3) Universities and community colleges ~~and~~; and

(4) Any other relevant group of persons deemed to be appropriate by the Board.

(b) Shall, within the parameters set forth in the American Recovery and Reinvestment Act of 2009 or the parameters of any other program for which the federal funding is available, identify job training and education programs which the industry sector council determines to have the greatest likelihood of meeting the regional goals for economic development established for that industry sector pursuant to subparagraph (1) of paragraph (b) of subsection ~~1.1~~ 2.

~~3.1~~ 4. The Board shall:

(a) Identify and apply for federal funding available for the job training and education programs identified pursuant to paragraph (b) of subsection ~~2.1~~ 3;

(b) Consider and approve or disapprove applications for money;

(c) Provide and administer grants of money to industry sector councils for the purpose of establishing job training and education programs in industry sectors for which regional goals for economic development have been established pursuant to subparagraph (1) of paragraph (b) of subsection ~~1.1~~ 2; and

(d) Adopt regulations establishing:

(1) Guidelines for the submission and review of applications to receive grants of money from the Department; and

(2) Criteria and standards for the eligibility for and use of any grants made pursuant to paragraph (c).

~~4.1~~ 5. As used in this section, "industry sector" means a group of employers closely linked by common products or services, workforce needs, similar technologies, supply chains or other economic links.

Sec. 1.7. 1. The Department shall adopt regulations creating a program for a small business investment credit and providing the powers and duties of a small business investment company.

2. A person may apply to the Department for a small business investment credit. Such an application must be made on a form prescribed by the Department.

3. A person may apply to the Department for certification as a small business investment company. Such an application must include, without limitation:

(a) A completed application for certification as a small business investment company on a form prescribed by the Department;

(b) A nonrefundable fee of \$7,500;

(c) An audited financial statement accompanied by a report of audit containing the unqualified opinion of an independent certified public accountant issued not more than 35 days before the date of the application which states that the applicant has an equity capitalization of \$500,000 or more in the form of unencumbered cash, marketable securities or other liquid assets;

(d) Proof acceptable to the Department that the company has at least two persons employed or otherwise engaged to manage the money of the company who each have a minimum of 5 years of experience in money management in the venture capital or small business investment industry; and

(e) Proof acceptable to the Department that the primary business purpose of the company is to make investments in industry sectors that the Department deems important, including, without limitation, global energy, rural economic development, enterprise zones and minority-owned businesses.

4. As used in this section, "industry sector" has the meaning ascribed to it in section 1.3 of this act.

Sec. 2. NRS 232.900 is hereby amended to read as follows:

232.900 As used in NRS 232.900 to 232.960, inclusive, ~~and section 1.7~~ sections 1.3 and 1.7 of this act, unless the context otherwise requires:

1. "Department" means the Department of Employment, Training and Rehabilitation.

2. "Director" means the Director of the Department.

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

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Thank you, Mr. President. The amendment requires the Governor to appoint members to the Governor's Workforce Investment Board who represent various industry sectors, communities and areas of economic development and workforce diversity.

It enhances the duties of the Board to promote, among other things, various strategies to improve labor markets, coordination between the public and private sectors, useful performance measures among industry sectors, and educational resources for employers and employees.

It allows the Board to appoint to industry sector councils those persons deemed appropriate by the Board.

It adds a new section to the bill requiring the Department of Employment Training and Rehabilitation to adopt regulations for a program for a small business investment credit and a small business investment company.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 242.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 485.

"SUMMARY—Enacts provisions relating to energy efficiency, renewable energy and building construction. (BDR 58-378)"

"AN ACT relating to energy; requiring the Director of the Office of Energy within the Office of the Governor to adopt regulations setting forth standards of efficiency for certain appliances; requiring a portion of the annual assessment levied on public utilities and certain other entities by the Public Utilities Commission of Nevada to be allocated to the Office of Energy; requiring certain contractors to offer upgrades for renewable energy and energy efficiency; requiring certain contractors assisting buyers in obtaining financing to offer, or work with lenders that offer, energy efficient mortgages; requiring licensees of the Real Estate Division of the Department of Business and Industry to make certain information about energy efficiency in residential property available [for distribution by licensees,] to each party to a real estate transaction; revising continuing education requirements relating to energy efficiency for real estate brokers, real estate broker-salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill enacts provisions requiring the Director of the Office of Energy within the Office of the Governor to adopt regulations setting forth minimum standards of efficiency for appliances that have not received an Energy Star label in accordance with federal law. ~~including consumer audio and video equipment, pumps for residential pools, holding cabinets for hot food and portable electric spas.~~ Section 2 of this bill requires that a portion of the annual assessment levied on public utilities and certain other entities by the Public Utilities Commission of Nevada for the use of the Commission, in an amount determined by the Interim Finance Committee of not more than 0.05 mills, be allocated to supplement the budget of the Office of Energy. (NRS 704.033)

Section 4 of this bill ~~;~~ (1) requires a contractor to offer certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which ~~is~~ will be built by the contractor as part of a development of 25 or more single-family residences ~~;~~ ; (2) requires a contractor to offer information about retrofitting certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which has already been built by the contractor as part of a development of 25 or more single-family residences; and (3) requires the Director of the Office of Energy to adopt regulations establishing minimum standards of efficiency for each type of upgrade. Section 5 of this bill requires a contractor who ~~assists buyers in arranging~~ arranges financing for the purchase of a single-family residence which is built by the contractor as part of a development of 25 or more single-family residences to offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage which is comparable

to those offered by the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal Housing Administration, the Department of Housing and Urban Development and the Department of Veterans' Affairs. *If the contractor does not arrange financing for buyers, section 5 requires the contractor to provide information to buyers concerning energy efficient mortgages.*

Section 8 of this bill requires *licensees* of the Real Estate Division of the Department of Business and Industry to ~~select, and then require its licensees to~~ distribute *free of charge* to each ~~prospective~~ party to a real estate transaction ~~[, a brochure or packet of information prepared by a public or private utility]~~ *written information which is available publicly and* which is designed to assist in the identification, evaluation and selection of energy efficiency and conservation features in residential property. Sections 11, ~~11~~, *12 and 13* of this bill amend the continuing education requirements for real estate brokers, real estate broker-salesmen, *real estate salesmen*, mortgage brokers and certified or licensed real estate appraisers to include a requirement for training in energy efficiency and conservation features in residential property. (NRS 645.575, 645B.051, 645C.440)

*Sections 11.5 and 13.5 of this bill allow a new component to be added to an existing course of continuing education without the Division requiring the course to be accredited or approved as a new course or charging accreditation or approval fees for the course. (NRS 645.830, 645C.450)*

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:

~~1-1~~ *The Director shall adopt regulations setting forth minimum standards of efficiency for appliances that have not received an Energy Star label in accordance with the program established pursuant to 42 U.S.C. §§ 6294a et seq. ~~The regulations must include, without limitation, standards for:~~*

~~(a) Consumer audio and video equipment, which must use:~~

~~(1) For a compact audio product:~~

~~(I) Two watts or less in audio standby mode if there is not a permanently illuminated clock display; and~~

~~(II) Four watts or less in audio standby mode if there is a permanently illuminated clock display;~~

~~(2) For a television, 3 watts or less in television standby mode; and~~

~~(3) For a digital versatile disc player or a digital versatile disc recorder, 3 watts or less in standby mode;~~

~~— unless the equipment consists of more than one individually powered product, each with a separate main plug, in which case the individually powered product must not have a power usage that is greater than the allowable values;~~

~~(b) The controls and motor of a pump for a residential pool, which must meet the following requirements:~~

~~(1) The pump motor must not be a split phase motor or a capacitor start induction run motor;~~

~~(2) If the pump motor has a capacity of 1 horsepower or more, the motor must be able to operate at two or more speeds, with the lower speed having a rotation rate of not more than one half the maximum rotation rate of the motor; and~~

~~(3) The controls must be able to operate the pool pump at a minimum of two speeds, the default circulation speed of which must be the lowest speed, with a high speed override capability for a temporary period that does not exceed one normal cycle;~~

~~(c) A holding cabinet for hot food, which must use 40 watts or less per cubic foot of measured interior volume in idle mode; and~~

~~(d) A portable electric spa, which must use in standby mode a number of watts which does not exceed the product of 5 times V, where "V" equals the total volume of the spa in gallons raised to the two-thirds power.~~

~~2. Except as otherwise provided in subsection 3, this section applies to new products sold, offered for sale or installed in this State on or after October 1, 2009.~~

~~3. This section does not apply to:~~

~~(a) New products manufactured in this State on or after October 1, 2009, and sold outside this State; or~~

~~(b) New products manufactured outside this State on or after October 1, 2009, and sold at wholesale inside this State for final retail sale and installation outside this State.~~

~~4. The Director or his designee may inspect a business that sells appliances subject to this section in a reasonable manner at any time during which the business is open to ensure compliance with the requirements of this section and the regulations adopted pursuant thereto.~~

~~5. As used in this section:~~

~~(a) "Compact audio product" means an integrated audio system that is encased in a single housing which includes an amplifier, radio tuner and attached or separable speakers and which reproduces audio from one or more of the following media:~~

~~(1) Magnetic tape;~~

~~(2) Compact disc;~~

~~(3) Digital versatile disc; or~~

~~(4) Flash memory.~~

~~The term does not include products that are independently powered by internal batteries, have a powered external satellite antenna or provide a video output signal.~~

~~(b) "Holding cabinet for hot food" means a heated, fully enclosed compartment with one or more solid or partial glass doors that is designed to maintain the temperature of hot food which has been cooked in a separate~~

~~appliance. The term does not include heated glass merchandising cabinets, drawer warmers or cook and hold appliances.~~

~~(c) "Portable electric spa" means a factory-built electric spa or hot tub that is supplied with equipment for heating and circulating water.~~

~~(d) "Pump for a residential pool" means a pump that is used to circulate and filter pool water to maintain clarity and sanitation.~~

Sec. 2. NRS 704.033 is hereby amended to read as follows:

704.033 1. Except as otherwise provided in subsection ~~{6,}~~ 7, the Commission shall levy and collect an annual assessment from all public utilities, providers of discretionary natural gas service and alternative sellers subject to the jurisdiction of the Commission.

2. Except as otherwise provided in subsections 3 and ~~{4,}~~ 5, the annual assessment must be:

(a) For the use of the Commission, not more than 3.50 mills; and

(b) For the use of the Consumer's Advocate, not more than 0.75 mills,

↪ on each dollar of gross operating revenue derived from the intrastate operations of ~~{such}~~ those utilities, providers of discretionary natural gas service and alternative sellers in the State of Nevada. The total annual assessment must be not more than 4.25 mills.

3. The levy for the use of the Consumer's Advocate must not be assessed against railroads.

4. *A portion of the levy for the use of the Commission, in an amount determined by the Interim Finance Committee of not more than 0.05 mills, must be allocated to supplement the budget of the Office of Energy within the Office of the Governor.*

5. The minimum assessment in any 1 year must be \$100.

~~{5,}~~ 6. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:

(a) Telecommunication providers, except as *otherwise* provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues.

(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.

(c) All public utilities, providers of discretionary natural gas service and alternative sellers, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility, provider of discretionary natural gas service or alternative seller for resale.

~~{6,}~~ 7. Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee of \$200.

Sec. 3. Chapter 624 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. *A contractor shall offer a choice of upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which ~~is~~ will be built by the contractor as part of a development of 25 or more single-family residences. The upgrades may be*

offered in a package, but the contractor shall allow the person to select individual upgrades and shall not require the selection of an entire package.

Qualifying upgrades include, without limitation:

- (a) Awnings and shutters;
- (b) Cool roof coating;
- (c) Energy efficient appliances;
- (d) A ground source heat pump;
- (e) Low-emissivity windows;
- (f) A programmable thermostat;
- (g) Ridge vents;
- (h) A system for solar energy that:

(1) Consists of a photovoltaic solar collector, or other device for photovoltaic solar energy, that has a primary purpose of providing for the collection, storage and distribution of solar energy for the generation of electricity; and

(2) Produces an average of at least 2 kilowatts of alternating current of electricity; ~~and~~

(i) A system for solar thermal energy that has a primary purpose of providing for the collection, storage and distribution of solar energy for the production of hot water or air for space heating or water heating ~~and~~; and

(j) A charging station for an electric vehicle.

2. A contractor shall provide information on retrofitting qualifying upgrades for renewable energy and energy efficiency set forth in subsection 1 to a person who negotiates to purchase a single-family residence which the contractor has already built as part of a development of 25 or more single-family residences.

3. The Director of the Office of Energy within the Office of the Governor shall adopt regulations establishing minimum standards of efficiency for each type of qualifying upgrade.

Sec. 5. 1. A contractor who ~~assists a buyer in arranging~~:

(a) Directly or through an affiliate, subsidiary or other related entity arranges financing for the purchase of a single-family residence which is built by the contractor as part of a development of 25 or more single-family residences shall offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage.

(b) Does not arrange financing for the purchase of a single-family residence specified in paragraph (a) shall provide to the purchaser, free of charge, written information concerning energy efficient mortgages which must include, without limitation, the information concerning energy efficient mortgages available publicly from the United States Department of Energy, the Environmental Protection Agency, the Federal Housing Administration and the Department of Housing and Urban Development.

2. The energy efficient mortgage offered pursuant to paragraph (a) of subsection 1 must be comparable, as determined by the Director of the Office of Energy within the Office of the Governor, to the energy efficient

mortgages offered by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Department of Housing and Urban Development and the Department of Veterans' Affairs.

3. As used in this section, "energy efficient mortgage" means a mortgage which credits the energy efficiency of a home in the mortgage by providing borrowers with the opportunity to finance cost-effective and energy-saving measures as part of a single mortgage and by increasing debt-to-income qualifying ratios on loans.

Sec. 6. Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. "Residential property" has the meaning ascribed to it in NRS 113.100.

Sec. 8. ~~1. The Division shall select, and make available for distribution pursuant to subsection 2, brochures or packets of information prepared by a public or private utility that are~~ A licensee shall provide, free of charge, to each party to a real estate transaction written information which is available publicly and which is designed to assist a person in the identification, evaluation and selection of energy efficiency and conservation features in residential property. The ~~brochures or packets of~~ written information must include, without limitation, information relating to:

- ~~1.~~ 1. Appliances;
- ~~2.~~ 2. Building materials used in homes;
- ~~3.~~ 3. Cool roofs;
- ~~4.~~ 4. Energy efficient mortgages and financing;
- ~~5.~~ 5. "Green" home certification programs;
- ~~6.~~ 6. Heating and cooling systems, including water heating systems;
- ~~7.~~ 7. Home energy audits and ratings;
- ~~8.~~ 8. Insulation;
- ~~9.~~ 9. Landscaping;
- ~~10.~~ 10. Lighting and day lighting;
- ~~11.~~ 11. Passive solar heating;
- ~~12.~~ 12. Solar electricity;
- ~~13.~~ 13. Water-conserving devices; and
- ~~14.~~ 14. Windows.

~~2. The Division shall require a licensee to distribute a brochure or packet of information selected pursuant to subsection 1 to each prospective party to a real estate transaction who is represented by the licensee.~~

Sec. 9. NRS 645.0005 is hereby amended to read as follows:

645.0005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, and section 7 of this act have the meanings ascribed to them in those sections.

Sec. 10. NRS 645.194 is hereby amended to read as follows:

645.194 1. The Division shall prepare a booklet that provides relevant information concerning the disclosures that are required by federal, state and

local laws and regulations by a buyer and a seller in a transaction involving the sale of residential property.

2. The Division shall make copies of the booklet prepared pursuant to subsection 1 available to licensees which the licensee must distribute to prospective buyers and sellers in the sale of residential property in accordance with the regulations adopted by the Commission.

3. The Commission shall approve the format and content of the information that must be included in the booklet.

~~{4. As used in this section, "residential property" has the meaning ascribed to it in NRS 113.100.}~~

Sec. 11. NRS 645.575 is hereby amended to read as follows:

645.575 1. The Commission shall adopt regulations that prescribe the standards for the continuing education of persons licensed pursuant to this chapter.

2. The standards adopted pursuant to subsection 1 must permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The Commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this section, the Commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.

3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission may, without limitation, adopt by regulation standards for continuing education that:

(a) Establish a postlicensing curriculum of continuing education which must be completed by a person within the first year immediately after initial licensing of the person.

(b) Require a person whose license as a real estate broker or real estate broker-salesman has been placed on inactive status for any reason for 1 year or more or has been suspended or revoked to complete a course of instruction in broker management that is designed to fulfill the educational requirements for issuance of a license which are described in paragraph (d) of subsection 2 of NRS 645.343 ~~{,}~~ before the person's license is reissued or reinstated.

4. *In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a person who holds a license as a real estate broker, ~~or~~ real estate broker-salesman or real estate salesman to complete ~~fa course of~~ instruction in energy efficiency in residential property which ~~includes,~~ :*

*(a) Includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in ~~subsection 1 of~~ section 8 of this act ~~+~~; and*

*(b) Is offered as a component of another qualified course of continuing education for which the Division does not charge an accreditation fee pursuant to NRS 645.830.*

5. Except as otherwise provided in this subsection, the license of a real estate broker, broker-salesman or salesman must not be renewed or reinstated unless the Administrator finds that the applicant for the renewal license or for reinstatement to active status has completed the continuing education required by this chapter. Any amendment or repeal of a regulation does not operate to prevent an applicant from complying with this section for the next licensing period following the amendment or repeal.

*Sec. 11.5. NRS 645.830 is hereby amended to read as follows:*

645.830 1. ~~The~~ *Except as otherwise provided in subsection 3, the following fees must be charged by and paid to the Division:*

For each original real estate broker's, broker-salesman's or corporate broker's license \$105

For each original real estate salesman's license ..... 85

For each original branch office license ..... 120

For real estate education, research and recovery to be paid at the time an application for an original license is filed ..... 40

For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed ..... 40

For each renewal of a real estate broker's, broker-salesman's or corporate broker's license ..... 180

For each renewal of a real estate salesman's license ..... 140

For each renewal of a real estate branch office license ..... 110

For each penalty for late filing of a renewal for a broker's, broker-salesman's or corporate broker's license ..... 95

For each penalty for late filing of a renewal for a salesman's license ..... 75

For each change of name or address ..... 20

For each transfer of a real estate salesman's or broker-salesman's license and change of association or employment ..... 20

For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof ..... 20

For each change of broker status from broker to broker-salesman ..... 20

For each change of broker status from broker-salesman to broker ..... 40

For each reinstatement to active status of an inactive real estate broker's, broker-salesman's or salesman's license ..... 20

For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location..... 30

For each reinstatement of a real estate salesman's or broker-salesman's license when he fails to notify the Division of a change of broker within 30 days of termination by previous broker ..... 30

For each original registration of an owner-developer ..... \$125

For each annual renewal of a registration of an owner-developer..... 125

For each enlargement of the area of an owner-developer's registration..... 50

For each cooperative certificate issued to an out-of-state broker licensee for 1 year or fraction thereof ..... 150

For each original accreditation of a course of continuing education ..... 100

For each renewal of accreditation of a course of continuing education ..... 50

For each annual approval of a course of instruction offered in preparation for an original license or permit ..... 100

2. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:

- (a) Any university, state college or community college of the Nevada System of Higher Education.
- (b) Any agency of the State.
- (c) Any regulatory agency of the Federal Government.

3. If a new component is added to the curriculum of an existing course of continuing education, the Division shall not require the course to be accredited as a new course and shall not charge and collect the fee for the original or renewal accreditation of the course pursuant to subsection 1.

4. The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.

Sec. 12. 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 if a person attends more than 10 hours of certified courses of continuing education during a 12 month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.

3. *In addition to any other standards for continuing education that the Commissioner adopts by regulation pursuant to NRS 645B.0138, the Commissioner shall adopt by regulation standards for continuing education that require a licensee to complete a course ~~which includes, without limitation, training~~ of instruction which:*

*(a) Includes, without limitation, instruction related to energy efficient mortgages and financing; and*

*(b) Is offered as a component of another qualified course of continuing education.*

4. 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 meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.

*Sec. 12.5. NRS 645C.340 is hereby amended to read as follows:*

645C.340 1. Each application for an examination for a certificate or license must be accompanied by the fees established by the Division pursuant to subsection ~~2~~ 3 of NRS 645C.450.

2. The examination must test the applicant on his knowledge and understanding of:

(a) Subjects applicable to the type of certificate or license for which he is applying; and

(b) Laws regarding the practice of preparing and communicating appraisals, including the provisions of this chapter and any regulations adopted pursuant thereto.

3. The Division may hire a professional testing organization to create, administer or score the examination.

*Sec. 13. NRS 645C.440 is hereby amended to read as follows:*

645C.440 1. The Commission shall adopt regulations governing the continuing education of certified or licensed appraisers. The regulations must include the criteria for approving each course and the requirements for submission of proof of attendance at a course.

2. In approving courses for continuing education, the Commission shall authorize a variety of subjects and give consideration to specialized areas of practice and the availability of programs. An appropriate educational course given by an accredited university or community college must be approved by the Commission.

3. *In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a certified or licensed appraiser to complete ~~[(a course of)]~~ instruction in energy efficiency in residential property which ~~includes~~ :*

*(a) Includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in ~~[(subsection 1 of)]~~ section 8 of this act ~~and~~ ; and*

*(b) Is offered as a component of another qualified course of continuing education for which the Division does not charge an approval fee pursuant to NRS 645C.450.*

*Sec. 13.5. NRS 645C.450 is hereby amended to read as follows:*

645C.450 1. ~~[(The)]~~ *Except as otherwise provided in subsection 2, the following fees may be charged and collected by the Division:*

Application for a certificate, license or registration card.....	\$100
Issuance or renewal of a certificate or license as a residential appraiser.....	290
Issuance or renewal of a certificate as a general appraiser .....	390
Issuance of a permit .....	115
Issuance or renewal of a registration card.....	190
Issuance of a duplicate certificate or license for an additional office.....	50
Change in the name or location of a business .....	20
Reinstatement of an inactive certificate or license.....	30
Annual approval of a course of instruction offered in preparation for an initial certificate or license.....	\$100
Original approval of a course of instruction offered for continuing education .....	100
Renewal of approval of a course of instruction offered for continuing education .....	50

2. *If a new component is added to the curriculum of an existing course of instruction for continuing education, the Division shall not require the course to be approved as a new course and shall not charge and collect the fee for an original approval or renewal of approval of the course pursuant to subsection 1.*

3. *The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:*

(a) Any examination for a certificate or license, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

*Sec. 14. The Director of the Office of Energy shall adopt the regulations required by section 1 of this act on or before December 31, 2009.*

~~[(Sec. 14.)]~~ *Sec. 15. 1. This section ~~(becomes)~~ and section 14 of this act become effective upon passage and approval.*

2. *Section 8 of this act becomes effective:*

(a) Upon passage and approval for the purpose of taking any actions required by ~~the Real Estate Division of the Department of Business and Industry to select and distribute the brochures or packets of~~ *a licensee to provide written* information concerning energy efficiency and conservation specified in that section; and

(b) On October 1, 2009, for all other purposes.

3. Sections 1, 4, 11, ~~11.5, 12 (and)~~ 13 *and 13.5* of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

4. Sections 2, 3, 5, 6, 7, 9 ~~(and)~~ 10 *and 12.5* of this act become effective on October 1, 2009.

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and Carlton.

Senator Schneider requested that the following remarks be entered in the Journal.

SENATOR SCHNEIDER:

Thank you, Mr. President. Amendment No. 485 deletes the specific requirements for appliance standards, leaving the details to the Director of the Energy Office through regulations.

The amendment clarifies that energy efficiency and renewable energy options offered by contractors as part of developments of more than 25 single-family residences are to be offered on houses that will be built and will provide information about retrofitting on houses that are already built.

SENATOR CARLTON:

Thank you, Mr. President. Is this the replacement amendment for the previous amendment or in addition to the previous amendment? This is the replacement amendment, and I see language on page 9, line 20, "if a new component is added to the curriculum of an existing course of continuing education the division shall not require the course to be accredited as a new course." This was one of those bills that was hard to keep up with, and I want to make sure that I remember the discussion about this language because I have concerns about the "shall not require the course to be accredited." I know that was a big topic of discussion in other bills.

SENATOR SCHNEIDER:

Thank you, Mr. President. What we have done here is added this for the realtors. It is not mandatory that they have to take this course; this is added to their continuing education as a course that is offered but not mandatory that they take it in their two-year cycle period.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 259.

Bill read second time.

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

Amendment No. 447.

"SUMMARY—Establishes a temporary program for the alternative licensure of teachers. (BDR 34-679)"

"AN ACT relating to education; establishing a program for the alternative licensure of teachers; requiring the Commission on Professional Standards in Education to adopt regulations providing for the issuance and renewal of a

special qualifications license to teach in certain subject areas to applicants who satisfy certain requirements; providing for the prospective expiration of the program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the issuance of a special qualifications license to teach to an applicant who satisfies certain requirements. (NRS 391.019) Section 1 of this bill establishes a program for the alternative licensure of teachers and requires the Commission on Professional Standards in Education to adopt regulations providing for the issuance and renewal of a special qualifications license to teach in the subject areas of biological science, chemistry, general science, mathematics or physics to an applicant who: (1) holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence; and (2) agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school. An applicant for such licensure is exempt from certain examination requirements. A person who is licensed pursuant to section 1 may not teach in a public school which is designated as demonstrating need for improvement. Sections 3 and 4 of this bill specify that a special qualifications license issued pursuant to the program for alternative licensure is subject to existing provisions of law governing certain other special qualifications licenses. (NRS 391.031, 391.037) Section 6 of this bill requires the Commission to report to the Legislature on or before December 31, 2014, concerning the program for alternative licensure. Section 7 of this bill provides for the prospective expiration of the program on June 30, 2015.

Existing law provides for a similar program for alternative licensure but conditions that program on the approval by the Commission of the Passport to Teaching certification from the American Board for Certification of Teacher Excellence as an alternative route to licensure. That program is currently codified in NRS 391.019 and is scheduled to expire on June 30, 2011. Section 5 of this bill provides for the expiration of that program on June 30, 2009, to correspond with the enactment of the program for alternative licensure established by section 1 of this bill.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *There is hereby established a program for the alternative licensure of teachers.*

2. *Except as otherwise provided in NRS 391.027, the Commission shall adopt regulations providing for the issuance and renewal of a special qualifications license to teach in the subject areas of biological science, chemistry, general science, mathematics or physics to an applicant who:*

(a) *Holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence; and*

(b) Agrees to participate in a program of mentoring of the American Board for Certification of Teacher Excellence or other program provider for the first year of his employment as a teacher with a school district or charter school.

3. An applicant for licensure pursuant to this section is exempt from each examination required by NRS 391.021.

4. The board of trustees of a school district and the governing body of a charter school shall not employ a person who is licensed pursuant to this section to teach in a public school which is designated as demonstrating need for improvement pursuant to NRS 385.3623.

Sec. 2. NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in subparagraph (10) of paragraph (a) of subsection 1 of NRS 391.019 and NRS 391.027, and section 1 of this act, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and his knowledge of each specific subject he proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;
2. The Constitution of the State of Nevada; and
3. The Constitution of the United States.

↪ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel who have previous experience in teaching or performing other educational functions in another state.

Sec. 3. NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.

2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

3. A license to teach secondary education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in any secondary school. He may teach only in ~~these~~ those fields unless an exception is approved pursuant to regulations adopted by the Commission.

4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated

in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the Commission adopted pursuant to [subparagraph]:

(a) *Subparagraph* (7) or (10) of paragraph (a) of subsection 1 of NRS 391.019 ~~};~~; or

(b) *Section 1 of this act.*

Sec. 4. NRS 391.037 is hereby amended to read as follows:

391.037 1. The State Board shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions.

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1 of NRS 391.019 ~~};~~ or *section 1 of this act*, an applicant for a license as a teacher or administrator or to perform some other educational function must submit with his application, in the form prescribed by the Superintendent of Public Instruction, proof that he has satisfactorily completed a course of study and training approved by the State Board pursuant to subsection 1.

Sec. 5. Section 5 of chapter 151, Statutes of Nevada 2007, at page 504, is hereby amended to read as follows:

Sec. 5. This act becomes effective on July 1, 2007, and expires by limitation on June 30, ~~2011;~~ 2009.

Sec. 6. The Commission on Professional Standards in Education shall, on or before December 31, 2014, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education a report which includes, without limitation:

1. A general assessment of the program for the alternative licensure of teachers established by section 1 of this act;

2. The number of applicants for licensure under the provisions of section 1 of this act;

3. The number of teachers who are licensed under those provisions and who have been subsequently employed by a school district *or charter school* in this State;

4. The assessment of those teachers by the principals of the schools at which the teachers have been employed; and

5. Any recommendations for legislation that may improve the effectiveness of the program for alternative licensure.

Sec. 7. 1. This act becomes effective on July 1, 2009.

2. Sections 1 to 4, inclusive, and 6 of this act expire by limitation on June 30, 2015.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Thank you, Mr. President. The amendment prohibits a teacher licensed pursuant to the provision of the bill to teach at a school designated as demonstrating need for improvement.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 290.

Bill read second time.

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

Amendment No. 297.

"SUMMARY—Authorizes patients of certain facilities to install electronic surveillance devices in the room of the patient. (BDR 40-852)"

"AN ACT relating to public health; authorizing patients of certain facilities to install electronic surveillance devices in the room of the patient under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill establishes the right of a patient or ~~the guardian~~ a person authorized to act on behalf of a patient who resides in a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups to install and operate a monitoring device in the room of the patient. Section 3 also prescribes the required waivers that must be obtained from the patient or ~~the guardian~~ the person authorized to act on his behalf who is installing the device and from each patient who also resides in the room or ~~his guardian~~ a person authorized to act on the patient's behalf. Section 5 of this bill requires that the monitoring device be installed in a manner that is safe for the residents, employees and visitors to the room, that the monitoring device be installed in compliance with all applicable regulations and codes, and that all monitoring be conducted in plain view. Section 6 of this bill sets forth the conditions under which a ~~tape or~~ video recording from such a monitoring device may be admitted into evidence in a civil or criminal court action or in an administrative proceeding.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. As used in sections 2 to 6, inclusive, of this act, "monitoring device" means a video surveillance instrument that broadcasts or records activity. The term does not include a camera used to take still photographs.

Sec. 3. 1. A patient of a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups, or ~~his guardian~~ the person authorized pursuant to subsection 6 to

act on his behalf may install and operate a monitoring device in the room of the patient if:

(a) The patient or the ~~guardian~~ person acting on his behalf pays the expense of installing, operating and maintaining the monitoring device; and

(b) The waivers required pursuant to subsection 2 have been signed.

2. Before a monitoring device may be installed in the room of a patient pursuant to this section, a written waiver must be obtained from each patient who resides in the room in which the monitoring device will be installed and operated, or ~~his guardian,~~ the person authorized pursuant to subsection 6 to act on the patient's behalf, including the patient or the ~~guardian~~ person acting on his behalf who is installing the monitoring device. Each written waiver must include:

(a) Consent to the installation and operation of the monitoring device;

(b) A description of the type of monitoring device that will be installed;

(c) A description of whether the monitoring device will be in continuous operation in the room or if not, the prescribed circumstances under which the monitoring device will not be in operation to protect the dignity of a patient;

(d) Any conditions on the use of the device that another resident of the room requires as a condition to his consent;

(e) An acknowledgment that the patient or the ~~guardian~~ person authorized pursuant to subsection 6 to act on his behalf releases the facility from any liability for violations of the right to privacy of the person who resides in the room in which the monitoring device is operated; and

(f) An acknowledgment that the patient or the ~~guardian~~ person authorized pursuant to subsection 6 to act on his behalf releases the person who operates the monitoring device from violations of the right to privacy relating to reasonable disclosures of the activities broadcast or recorded by the monitoring device.

3. ~~If a video surveillance camera is used as a monitoring device, a~~ A patient or a ~~guardian~~ person authorized pursuant to subsection 6 to act on his behalf who is not installing and operating the ~~camera~~ monitoring device but who provides his consent for operation of the monitoring device in the room may, as a condition to his consent, require that the ~~camera~~ monitoring device be pointed away from the patient who is not installing and operating the ~~camera~~ monitoring device at all times.

4. If a monitoring device is in operation in a room and another patient is moved into the room who has not yet consented to the operation of the monitoring device, the monitoring must cease until the new resident of the room or ~~his guardian,~~ the person authorized pursuant to subsection 6 to act on his behalf provides consent pursuant to this section.

5. A patient or a ~~guardian~~ person authorized pursuant to subsection 6 to act on his behalf who signs a waiver pursuant to subsection 2:

(a) Releases the facility from liability for any violation of the right to privacy of the patient with regard to operation of a monitoring device.

(b) Releases the person who operates a monitoring device from any violation of the right to privacy relating to reasonable disclosures of the activities broadcast or recorded by the monitoring device.

(c) May revoke his signature and reinstate the right to privacy of the patient at any time. Such revocation must be in writing and signed by the patient or ~~his guardian~~ a person authorized pursuant to subsection 6 to act on his behalf.

6. If a patient lacks the mental capacity to consent to the installation and operation of a monitoring device pursuant to the provisions of this section:

(a) The guardian, attorney-in-fact designated pursuant to NRS 449.800 to 449.860, inclusive, or other legal representative of the patient may sign the waiver required pursuant to subsection 2 on behalf of the patient; or

(b) If a guardian, attorney-in-fact or other legal representative has not been designated for the patient, a member of the family of the patient may sign the waiver required pursuant to subsection 2 on behalf of the patient.

Sec. 4. 1. At the time of admission, a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall notify a patient or ~~his guardian~~ the person authorized to act on his behalf pursuant to subsection 6 of section 3 of this act of the right to install and operate a monitoring device pursuant to sections 2 to 6, inclusive, of this act. A facility shall not:

(a) Deny the admission of;

(b) Discharge from the facility; or

(c) Otherwise discriminate or retaliate against,

↪ a patient who wishes to have or has a monitoring device installed and operated in his room.

2. A facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall:

(a) Cooperate with a patient or ~~his guardian~~ the person authorized to act on his behalf pursuant to subsection 6 of section 3 of this act to accommodate the installation of a monitoring device in the room of the patient;

(b) Post a notice at each public entrance to the facility stating that the rooms of some of the residents may be under electronic surveillance by or on behalf of the residents; and

(c) Post a notice in a conspicuous place at the entrance to each room in which a monitoring device is in use stating that the room is under electronic surveillance.

Sec. 5. 1. A monitoring device that is used pursuant to sections 2 to 6, inclusive, of this act must be installed in a manner that ~~is~~ :

(a) Is safe for the residents, employees and visitors of the facility who may be in the room in which the monitoring device is installed.

(b) Complies with all applicable regulations and codes, including, without limitation, all building codes, health codes, and safety codes for the

jurisdiction in which the facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility is located.

2. All monitoring authorized pursuant to sections 2 to 6, inclusive, of this act must be conducted in plain view.

Sec. 6. 1. Subject to the applicable rules of evidence and procedure and the provisions of this section, a ~~tape or~~ video recording created through the use of a monitoring device that is installed and operated in accordance with sections 2 to 6, inclusive, of this act may be admitted into evidence in a civil or criminal court action or in an administrative proceeding if the contents of the ~~tape or~~ video recording have not been edited, artificially enhanced or otherwise tampered with.

2. ~~If the tape or recording is a video recording, that~~ The video recording must not be admitted pursuant to subsection 1 unless the recording clearly shows the date and time of the events that are the subject of the action or proceeding.

3. If the contents of the ~~tape or~~ video recording have been transferred from the original format to another technological format, the ~~tape or~~ video recording in the transferred format must not be admitted pursuant to subsection 1 unless the transfer was done by qualified personnel and the contents of the ~~tape or~~ video recording were not altered or otherwise tampered with.

Sec. 7. Each facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall, on or before October 1, 2009, notify each patient who resides in the facility on that date or ~~his guardian~~ the person authorized to act on behalf of the patient pursuant to subsection 6 of section 3 of this act of the right of the patient or the ~~guardian~~ person authorized to act on his behalf to install and operate a monitoring device pursuant to the provisions of sections 2 to 6, inclusive, of this act.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Senator Cegavske requested that her remarks be entered in the Journal.

Thank you, Mr. President. This amendment replaces the term guardian with "a person authorized to act on behalf of the patient."

It specifies that the monitoring device be installed in compliance with all applicable regulations and codes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 340.

Bill read second time.

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

Amendment No. 262.

"SUMMARY—Revises provisions governing the allocation of certain money from the Fund for a Healthy Nevada. (BDR 40-1133)"

"AN ACT relating to public health; revising provisions governing the allocation by the Department of Health and Human Services of certain money from the Fund for a Healthy Nevada; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Fund for a Healthy Nevada in the State Treasury, into which the State Treasurer is required to deposit: (1) fifty percent of all money received by the State pursuant to any settlement entered into by the State and a manufacturer of tobacco products; and (2) fifty percent of all money recovered by the State from a judgment in a civil action against a manufacturer of tobacco products. (NRS 439.620) Existing law requires the Department of Health and Human Services to allocate, by contract or grant, for expenditure not more than 15 percent of available revenues from the Fund for a Healthy Nevada for programs that prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. (NRS 439.630) This bill requires that the money be allocated for programs that ~~(have been proven)~~ are consistent with the guidelines of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. This bill further requires that the money be allocated ~~to~~ ; (1) to the district board of health in each county whose population is 100,000 or more (currently Clark and Washoe Counties) for expenditure for such programs in the respective county; ~~and~~ (2) ~~the Health Division of the Department for expenditure~~ for such programs in counties whose population is less than 100,000 (all counties other than Clark and Washoe Counties) ; and (3) for evaluations, statewide tobacco cessation programs and other statewide services deemed necessary by the Health Division of the Department of Health and Human Services and district boards of health. This bill also removes the requirement that the Department or the Grants Management Advisory Committee conduct public hearings regarding existing or proposed programs that reduce or prevent the use of tobacco.

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

Section 1. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Department shall:

(a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(1) Promote public health;

(2) Improve health services for children, senior citizens and persons with disabilities;

(3) ~~Reduce or prevent the use of tobacco;~~

~~(4)~~ Reduce or prevent the abuse of and addiction to alcohol and drugs;  
and

~~[(5)]~~ (4) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities, and report the results of the evaluation to the Legislative Committee on Health Care on an annual basis.

(c) Allocate not more than 30 percent of available revenues for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money allocated pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The Department shall submit a quarterly report to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate regarding the general manner in which expenditures have been made pursuant to this paragraph.

(d) Allocate, by contract or grant, for expenditure not more than 30 percent of available revenues for allocation by the Aging Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

(1) Respite care or relief of informal caretakers;

(2) Transportation to new or existing services to assist senior citizens in living independently; and

(3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

↪ The Aging Services Division of the Department shall consider recommendations from the Grants Management Advisory Committee concerning the independent living needs of senior citizens.

(e) Allocate \$200,000 of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Director to:

(1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and

(2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

↪ The Director shall develop policies and procedures for distributing the money allocated pursuant to this paragraph. Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.

(f) Allocate ~~by contract or grant, for expenditure~~ to the Health Division not more than 15 percent of available revenues for programs that ~~have been proven~~ are consistent with the guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. In making allocations pursuant to this paragraph, the ~~Department~~ Health Division shall allocate the money ~~by~~, by contract or grant:

(1) To the district board of health in each county whose population is 100,000 or more for expenditure for such programs in the respective county;  
~~and~~

(2) ~~To the Health Division for expenditure for~~ For such programs in ~~those~~ counties whose population is less than 100,000 ~~by~~; and

(3) For statewide programs for tobacco cessation and other statewide services for tobacco cessation and for statewide evaluations of programs which receive an allocation of money pursuant to this paragraph, as determined necessary by the Health Division and the district boards of health.

(g) Allocate, by contract or grant, for expenditure not more than 10 percent of available revenues for programs that improve health services for children.

(h) Allocate, by contract or grant, for expenditure not more than 10 percent of available revenues for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Department shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite care or relief of informal caretakers for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

(i) Allocate not more than 5 percent of available revenues for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and

vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

(j) Maximize expenditures through local, federal and private matching contributions.

(k) Ensure that any money expended from the Fund will not be used to supplant existing methods of funding that are available to public agencies.

(l) Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

(m) To make the allocations required by paragraphs (f), (g) and (h):

(1) Prioritize and quantify the needs for these programs;

(2) Develop, solicit and accept applications for allocations;

(3) Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;

(4) Conduct annual evaluations of programs to which allocations have been awarded; and

(5) Submit annual reports concerning the programs to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

(n) Transmit a report of all findings, recommendations and expenditures to the Governor, each regular session of the Legislature, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

2. The Department may take such other actions as are necessary to carry out its duties.

3. To make the allocations required by paragraph (d) of subsection 1, the Aging Services Division of the Department shall:

(a) Prioritize and quantify the needs of senior citizens for these programs;

(b) Develop, solicit and accept grant applications for allocations;

(c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;

(d) Award grants, contracts or other allocations;

(e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and

(f) Submit annual reports concerning the allocations made by the Aging Services Division pursuant to paragraph (d) of subsection 1 to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

4. The Aging Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging Services Division of the Department shall not expend or transfer any money allocated to the Aging Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

5. A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.

6. As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus \$200,000.

Sec. 2. This act becomes effective on July 1, ~~2009~~ 2010.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Senator Washington requested that his remarks be entered in the Journal.

Thank you, Mr. President. The amendment requires that the program receiving funds be consistent with the guidelines of Centers for Disease Control and Prevention relating to evidence based practices.

It also specifies that the funds be allocated for evaluation, tobacco cessations programs or other statewide programs deemed necessary by the Health Division and district boards of health.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 376.

Bill read second time.

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

Amendment No. 319.

"SUMMARY—Makes various changes relating to the prevailing wage requirements. (BDR 28-730)"

"AN ACT relating to labor; making various changes relating to the establishment of the prevailing rates of wages in each county; and providing other matters properly relating thereto."

## Legislative Counsel's Digest:

Existing law requires the Labor Commissioner to establish the prevailing rate of wages for public works performed in each county. In determining the prevailing rate of wages for a county for a particular year, the Labor Commissioner is required to survey contractors who have performed work in the county during the preceding year. (NRS 338.030) Section 1 of this bill: (1) clarifies that the survey encompasses private and public nonresidential construction work; (2) specifies the classes ~~and subclasses~~ of workmen for which the Labor Commissioner is required to survey; ~~and~~ (3) if the prevailing rate of wages for a craft or type of work is a wage that has been collectively bargained, requires the Labor Commissioner to recognize the rate ~~and adjust~~ for the classes and subclasses of workmen and certain premium pay established in the collective bargaining agreement ~~as of~~ and adjust to the rate of wages in the agreement that are in effect on the effective date of the determination ~~it~~; and (4) clarifies the circumstances in which the Labor Commissioner is required to hold a hearing in a locality concerning an objection to or information received on a rate of prevailing wage that has been determined. These requirements apply initially to the process of determining and issuing the prevailing rate of wages that will become effective on October 1, 2010.

Under existing law, agencies of the Executive Branch of the State Government, unless specifically exempted, are required to comply with the Nevada Administrative Procedure Act when adopting administrative regulations or adjudicating contested cases. (NRS 233B.039) Section 2 of this bill exempts the Labor Commissioner from compliance with the Act only in ~~establishing~~ the process of determining and issuing the prevailing rate of wages in each county.

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

Section 1. NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, *and any person who wishes to bid on a public work* shall ascertain from the Labor Commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. To establish a prevailing wage in each county, including Carson City, the Labor Commissioner shall, annually, survey contractors who have performed *private or public nonresidential construction* work in the county. *As used in this subsection, "nonresidential construction work" means any type of construction other than the construction of multifamily residences which are less than four stories in height and the construction of single-family residences.*

3. *For the purpose of a survey conducted pursuant to subsection 2, the Labor Commissioner shall recognize and survey only for the following classes of workmen:*

- ~~(a) Air Balance Technician;~~  
~~(b) Alarm Installer;~~  
~~(c) Boilermaker;~~  
~~(d) Bricklayer, including, without limitation, Stone Mason;~~  
~~(e) Carpenter;~~  
~~(f) Cement Mason;~~  
~~(g) Electrician-Communication Technician;~~  
(g) Electrician-Lineman/Groundman/Operator;  
 (h) Electrician-Neon Sign;  
 (i) Electrician-Wireman;  
 (j) Elevator Constructor;  
 (k) Fence Erector;  
 (l) Floor Coverer;  
 (m) Glazier;  
 (n) Highway Stripper;  
 (o) Hod Carrier-Brick Mason Tender;  
 (p) Hod Carrier-Plasterer Tender;  
 (q) Ironworker;  
 (r) Laborer;  
 (s) Mechanical Insulator;  
 (t) Millwright;  
 (u) Operating Engineer, including, without limitation, Survey Technician,  
 Equipment Greaser, and Soils and Materials Tester;  
 (v) Painter;  
 (w) Piledriver (nonequipment);  
 (x) Plasterer;  
 (y) Plumber-Pipefitter; ~~including, without limitation;~~  
(z) Refrigeration Technician;  
~~(aa) Roofer (excluding metal roofs);~~  
~~(ab) Sheet Metal Worker;~~  
~~(bb), including, without limitation, Air Balance Technician;~~  
(cc) Sprinkler Fitter;  
~~(cd) Taper;~~  
~~(de) Tile Setter-Terrazzo Worker-Marble Mason, including, without~~  
 limitation, Tile Setter-Terrazzo Worker-Marble Mason Finisher;  
~~(ef) Truck Driver; and~~  
~~(fg) Well Driller.~~

4. ~~For the purpose of a survey pursuant to subsection 2, the Labor Commissioner shall recognize and survey only for the following subclasses of workmen:~~

- ~~(a) Foreman;~~  
~~(b) General Foreman; and~~  
~~(c) Journeyman.~~

~~5.~~ Within 30 days after the determination of the prevailing wages in a county is issued:

(a) A public body or person entitled under subsection ~~{5}~~ ~~{8}~~ 7 to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

~~{3. The}~~

~~{6}~~ 5. Except as otherwise provided in this subsection, the Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if he:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to *paragraph (a) or (b)* of subsection ~~{2}~~ ~~{5}~~ 4, unless the prevailing wage to which the objection or information pertains can be ~~addressed~~ corrected to the rate of wages requested in the objection or information by the Labor Commissioner through administrative action, including, without limitation, the correction of a clerical error. ~~for~~

~~(c) Receives information pursuant to paragraph (b) of subsection 5.~~

↪ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.

~~{4}~~ ~~{7}~~ 6. Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

~~{5}~~ ~~{8}~~ 7. At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

~~{6}~~ ~~{9}~~ 8. If the Labor Commissioner determines that the prevailing rate of wages for a craft or type of work is a wage which has been collectively bargained, the Labor Commissioner shall:

(a) Recognize:

(1) The rate for the classes and subclasses of workmen established in the collective bargaining agreement; and

(2) Any premium pay established in the collective bargaining agreement for:

(I) Subsistence, traveling to another zone or area or similar purposes;

(II) Shift differential; and

(III) Overtime, weekends or holiday.

(b) Adjust the prevailing rate of wages for the classes and subclasses of workmen to the rate of wages ~~including, without limitation, premium pay,~~ established in the collective bargaining agreement that are in effect on the effective date of the determination.

~~10.9~~ 9. The wages so determined *pursuant to this section* must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.

~~7.1~~ ~~11.1~~ 10. Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

Sec. 2. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

- (a) The Governor.
- (b) The Department of Corrections.
- (c) The Nevada System of Higher Education.
- (d) The Office of the Military.
- (e) The State Gaming Control Board.
- (f) Except as otherwise provided in NRS 368A.140, the Nevada Gaming Commission.
- (g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.
- (h) The Division of Health Care Financing and Policy of the Department of Health and Human Services.
- (i) The State Board of Examiners acting pursuant to chapter 217 of NRS.
- (j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.
- (k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.
- (l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.
- (m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.
- (n) The Labor Commissioner only in ~~establishing~~ the process of determining and issuing the prevailing rate of wages in each county pursuant to NRS 338.030 ~~and~~, including, without limitation, the conduct of annual surveys.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(e) NRS 90.800 for the use of summary orders in contested cases, ↪ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; or

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

*Sec. 2.5. The provisions of NRS 338.030, as amended by section 1 of this act, apply initially to the process of determining and issuing the prevailing rate of wages that will become effective on October 1, 2010.*

*Sec. 3. 1. This ~~act becomes~~ section and section 2 of this act become effective on July 1, 2009.*

*2. Sections 1 and 2.5 of this act become effective on January 1, 2010.*

Senator Lee moved the adoption of the amendment.

Conflict of interest declared by Senator Hardy.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

Thank you, Mr. President. This adds "Electrician-Lineman/Groundman/Operator" to the classes of workmen listed in the measure.

It clarifies the circumstances in which the Labor Commissioner is required to hold a hearing in a locality regarding a determined prevailing wage rate. Deletes a provision that would have required the Labor Commissioner to adjust premium pay in addition to the prevailing wage if the wage was based on rate that was collectively bargained. Provides that the Labor Commissioner

is exempt from the Nevada Administrative Procedures Act for certain procedures regarding prevailing wage determination, and clarifies the effective dates of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 377.

Bill read second time.

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

Amendment No. 320.

"SUMMARY—~~[Makes various changes]~~ *Revises provisions relating to certain public works. (BDR ~~1281~~ 35-729)*"

"AN ACT relating to public works; ~~[making various changes relating to public works;]~~ *revising provisions governing the awarding of certain smaller contracts of the Department of Transportation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~¶ Section 1 of this bill clarifies the exemption for certain purchasing contracts in existing law from the requirements for contracts for public works.~~

~~Section 2 of this bill eliminates the exemption for the Department of Transportation in existing law from the requirements for contracts for smaller public works and for specialty contracts.~~

~~Sections 3-6 of this bill eliminate the exemption for certain utilities and water districts in existing law from the requirements for competitive bidding for new construction, repair or reconstruction work that is not performed directly by the employees of the utility or water district.~~

~~Section 7 of this bill eliminates the exemption for the Department of Transportation in existing law to perform certain work or improvements with the facilities and employees of the Department.~~

*Existing law requires the Director of the Department of Transportation to advertise and mail bid invitations to interested bidders on contracts for highway projects with an estimated cost of \$250,000 or less. (NRS 408.367) This bill changes those requirements to provide that the Director must: (1) if the project is \$50,000 or less, solicit a bid from at least one licensed contractor; or (2) if the project is more than \$50,000 but not more than \$250,000, solicit bids from at least three licensed contractors. This bill also requires that any such bids received may be rejected based on certain criteria and requires the Director to prepare and maintain a quarterly report that details the larger contracts that were awarded. The requirements in this bill mirror the requirements from which the Department is exempt but which are imposed on the State and local governments for awarding contracts for public works with an estimated cost of \$100,000 or less. (NRS 338.1373, 338.13862)*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

## SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~NRS 338.011 is hereby amended to read as follows:~~

~~338.011 The requirements of this chapter do not apply to a contract:~~

~~1. Awarded in compliance with chapter 332 or 333 of NRS which is directly related to the normal operation of the public body or the normal maintenance of its property [.] and which, if performed by a private person or entity, would not require the person or entity to hold a license issued pursuant to chapter 624 of NRS.~~

~~2. Awarded to meet an emergency which results from a natural or man made disaster and which threatens the health, safety or welfare of the public. If the public body or its authorized representative determines that an emergency exists, a contract or contracts necessary to contend with the emergency may be let without complying with the requirements of this chapter. If such emergency action was taken by the authorized representative, the authorized representative shall report the contract or contracts to the public body at the next regularly scheduled meeting of the public body.]~~  
~~(Deleted by amendment.)~~

Sec. 2. ~~NRS 338.1373 is hereby amended to read as follows:~~

~~338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:~~

~~(a) NRS 338.1377 to 338.139, inclusive;~~

~~(b) NRS 338.143 to 338.148, inclusive;~~

~~(c) NRS 338.169 to 338.1699, inclusive; or~~

~~(d) NRS 338.1711 to 338.1727, inclusive.~~

~~2. The provisions of NRS 338.1375 to 338.1382, inclusive, [338.1386, 338.13862, 338.13864, 338.139,] 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.]~~  
~~(Deleted by amendment.)~~

Sec. 3. ~~NRS 338.1385 is hereby amended to read as follows:~~

~~338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:~~

~~(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.~~

~~(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864.~~

~~(e) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b);~~

~~2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.~~

~~3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.~~

~~4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.~~

~~5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.~~

~~6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:~~

~~(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;~~

~~(b) The bidder is not responsive or responsible;~~

~~(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or~~

~~(d) The public interest would be served by such a rejection.~~

~~7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:~~

~~(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;~~

~~(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);~~

~~(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and~~

~~(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.~~

~~8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:~~

~~(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;~~

~~(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;~~

~~(c) An estimate of the cost of administrative support for the persons assigned to the public work;~~

~~(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and~~

~~(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.~~

~~9. This section does not apply to:~~

~~(a) Any utility subject to the provisions of chapter 318 or 710 of NRS [;] for work of new construction, repair or reconstruction performed directly by the employees of the utility;~~

~~(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;~~

~~(c) Normal maintenance of the property of a school district;~~

~~(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993 [;], for work of new construction, repair or reconstruction performed directly by the employees of the District;~~

~~(e) The design and construction of a public work for which a public body contracts with a design build team pursuant to NRS 338.1711 to 338.1727, inclusive;~~

~~(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.} *(Deleted by amendment.)*~~

~~Sec. 4. [NRS 338.1385 is hereby amended to read as follows:~~

~~338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:~~

~~(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county;~~

~~(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864.~~

~~(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).~~

~~2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.~~

~~3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.~~

~~4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.~~

~~5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.~~

~~6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:~~

~~(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;~~

~~(b) The bidder is not responsive or responsible;~~

~~(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or~~

~~(d) The public interest would be served by such a rejection.~~

~~7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:~~

~~(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;~~

~~(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);~~

~~(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and~~

~~(d) The contract is awarded to the lowest responsive and responsible bidder.~~

~~8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:~~

~~(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;~~

~~(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;~~

~~(c) An estimate of the cost of administrative support for the persons assigned to the public work;~~

~~(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and~~

~~(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.~~

~~9. This section does not apply to:~~

~~(a) Any utility subject to the provisions of chapter 318 or 710 of NRS [;] for work of new construction, repair or reconstruction performed directly by the employees of the utility;~~

~~(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;~~

~~(c) Normal maintenance of the property of a school district;~~

~~(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993 [;], for work of new construction, repair or reconstruction performed directly by the employees of the District;~~

~~(e) The design and construction of a public work for which a public body contracts with a design build team pursuant to NRS 338.1711 to 338.1727, inclusive;~~

~~(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive. *(Deleted by amendment.)*~~

~~Sec. 5. [NRS 338.143 is hereby amended to read as follows:~~

~~338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:~~

~~(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the~~

~~required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.~~

~~(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.~~

~~(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).~~

~~2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.~~

~~3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.~~

~~4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.~~

~~5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:~~

~~(a) The bidder is not responsive or responsible;~~

~~(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or~~

~~(c) The public interest would be served by such a rejection.~~

~~6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:~~

~~(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;~~

~~(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);~~

~~(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and~~

~~(d) The contract is awarded to the lowest responsive and responsible bidder.~~

~~7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:~~

~~(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;~~

~~(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;~~

~~(c) An estimate of the cost of administrative support for the persons assigned to the public work;~~

~~(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and~~

~~(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.~~

~~8. This section does not apply to:~~

~~(a) Any utility subject to the provisions of chapter 318 or 710 of NRS [;] for work of new construction, repair or reconstruction performed directly by the employees of the utility;~~

~~(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;~~

~~(c) Normal maintenance of the property of a school district;~~

~~(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993 [;], for work of new construction, repair or reconstruction performed directly by the employees of the District;~~

~~(e) The design and construction of a public work for which a public body contracts with a design build team pursuant to NRS 338.1711 to 338.1727, inclusive;~~

~~(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.} *(Deleted by amendment.)*~~

~~Sec. 6. [NRS 338.143 is hereby amended to read as follows:~~

~~338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:~~

~~(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county;~~

~~(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.~~

~~(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b):~~

~~2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.~~

~~3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.~~

~~4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.~~

~~5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:~~

~~(a) The bidder is not responsive or responsible;~~

~~(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or~~

~~(c) The public interest would be served by such a rejection.~~

~~6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:~~

~~(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;~~

~~(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);~~

~~(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and~~

~~(d) The contract is awarded to the lowest responsive and responsible bidder.~~

~~7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:~~

~~(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;~~

~~(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;~~

~~(c) An estimate of the cost of administrative support for the persons assigned to the public work;~~

~~(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and~~

~~(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.~~

~~8. This section does not apply to:~~

~~(a) Any utility subject to the provisions of chapter 318 or 710 of NRS [;] for work of new construction, repair or reconstruction performed directly by the employees of the utility;~~

~~(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;~~

~~(c) Normal maintenance of the property of a school district;~~

~~(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993 [;], for work of new construction, repair or reconstruction performed directly by the employees of the District;~~

~~(e) The design and construction of a public work for which a public body contracts with a design build team pursuant to NRS 338.1711 to 338.1727, inclusive;~~

~~(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.] *(Deleted by amendment.)*~~

~~Sec. 7. [NRS 408.323 is hereby amended to read as follows:~~

~~408.323 1. Whenever it can be justified by the Director that limited work or improvements can be done in a more economical or other satisfactory manner than by contract under NRS 408.327, the Director may, with the approval of the Board, execute such work or improvements with Department facilities and employees.~~

~~2.] In the event of disaster or great emergency the Director may, with the approval of the Board, hire, employ or contract for such labor, materials and equipment as are in his opinion necessary to reroute, repair or replace any highway threatened or damaged by the emergency or disaster, and the provisions of NRS 408.327 and 408.367 do not apply.] *(Deleted by amendment.)*~~

~~Sec. 8. *NRS 408.367 is hereby amended to read as follows:*~~

~~408.367 1. With the approval of the Board, the Director may receive informal bids and award contracts for highway construction, reconstruction,~~

improvements, and maintenance on projects estimated to cost not in excess of \$250,000.

~~2. [Such informal bids must be submitted in accordance with due advertisement thereof being published for at least one publication in any newspaper or publication.]~~

~~3. The Department shall mail a copy of the bid invitation to all bidders who are on record with the Department as desiring to receive bid invitations on projects estimated to cost not in excess of \$250,000.~~

~~4. Before awarding a contract pursuant to subsection 1, the Director must:~~

~~(a) If the estimated cost of the project is \$50,000 or less, solicit a bid from at least one properly licensed contractor; and~~

~~(b) If the estimated cost of the project is more than \$50,000 but not more than \$250,000, solicit bids from at least three properly licensed contractors.~~

~~3. Any bids received in response to a solicitation for bids made pursuant to subsection 2 may be rejected if the Director determines that:~~

~~(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;~~

~~(b) The bidder is not responsive or responsible; or~~

~~(c) The public interest would be served by such a rejection.~~

~~4. At least once each quarter, the Director shall prepare a report detailing, for each project for which a contract for its completion is awarded pursuant to paragraph (b) of subsection 2, if any:~~

~~(a) The name of the contractor to whom the contract was awarded;~~

~~(b) The amount of the contract awarded;~~

~~(c) A brief description of the project; and~~

~~(d) The names of all contractors from whom bids were solicited.~~

~~5. A report prepared pursuant to subsection 4 is a public record and must be maintained on file at the principal offices of the Department.~~

6. Except as otherwise provided in NRS 408.354, contracts awarded pursuant to the provisions of this section must be accompanied by bonds and conditioned and executed in the name of the State of Nevada, and must be signed by the Director under the seal of the Department, and by the contracting party or parties. The form and legality of those contracts must be approved by the Attorney General or Chief Counsel of the Department.

~~[Sec. 8.] Sec. 9. [1. This section and sections 1, 2, 3, 5 and 7 of this] This act [become] becomes effective on July 1, 2009.~~

~~2. Sections 3 and 5 of this act expire by limitation on April 30, 2013.~~

~~3. Sections 4 and 6 of this act become effective on May 1, 2013.]~~

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

Thank you, Mr. President. This deletes sections 1 through 7 of the bill and adds new language to section 8 to address the authority of Nevada's Department of Transportation to receive informal bids and award contracts for highway projects estimated not to exceed \$250,000.

This new language provides that, if the estimated cost of the project is \$50,000 or less, bids must be solicited from at least one licensed contractor. It provides that, if the estimated cost of the project is between \$50,000 and \$250,000, bids must be solicited from at least three licensed contractors, and sets forth the circumstances by which the Department may reject such bids. It also requires the preparation of a report by NDOT providing information regarding those contracts between \$50,000 and \$250,000.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 383.

Bill read second time.

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

Amendment No. 454.

"SUMMARY—Requires certain warnings regarding the use of certain tobacco products. (BDR 40-1104)"

"AN ACT relating to public health; requiring each retail establishment in which cigarettes are sold or offered for sale to post a sign regarding the dangers of smoking tobacco during pregnancy; providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires food establishments in which alcoholic beverages are sold for consumption on the premises to post at least one sign in a location conspicuous to the patrons of the establishment regarding the dangers of drinking alcoholic beverages during pregnancy. (NRS 446.842) Existing law also requires the owner of a retail establishment in which tobacco products are sold or offered for sale to display prominently at the point of sale a notice indicating that the sale of cigarettes and other tobacco products to minors is prohibited by law and that the retailer may ask for proof of age to comply with the prohibition. (NRS 202.2493)

This bill requires each retail establishment in which cigarettes are sold or offered for sale to post ~~prominently at the point of sale~~ at least one sign regarding the dangers of smoking tobacco during pregnancy. ~~It~~ *in a location conspicuous to the patrons of the establishment. Each such retail establishment is required to comply with the provisions of this bill on or before December 31, 2009.* A person who fails to post the sign is subject to a civil fine of not more than \$100.

WHEREAS, Women who smoke tobacco during pregnancy cause chemicals such as tar, nicotine and carbon monoxide to pass from the placenta into the fetal blood supply, causing blood vessels to restrict and preventing oxygen and nutrients from reaching the fetus; and

WHEREAS, Studies have shown that women who smoked anytime during the month before becoming pregnant through the end of the first trimester were more likely to give birth to infants with certain congenital heart defects; and

WHEREAS, Studies have shown that infants who are born to women who smoke during their pregnancy have an increased risk of being born premature and are more likely to have a low birth weight; and

WHEREAS, Premature births and low birth weights are the leading causes of death of newborn infants; and

WHEREAS, In 2005, the United States spent \$26 billion in medical care costs associated with premature births; and

WHEREAS, The Comprehensive Smoking Education Act of 1984 requires cigarette packages to contain a warning label to adequately inform the public of the adverse health effects of smoking tobacco, including the adverse health effects of smoking tobacco during pregnancy; now, therefore,

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Each retail establishment in which cigarettes are sold or offered for sale shall post ~~at the point of sale~~ at least one sign that meets the requirements of this section in a location conspicuous to the patrons of the establishment. The contents of the warning may be included on any other sign which the retail establishment is required to post in a location conspicuous to the patrons of the establishment.*

2. *Each sign required by subsection 1 must be not less than 8 1/2 by 11 inches in size and must contain a notice in boldface type that is clearly legible and, except as otherwise provided in paragraph (a) of subsection 4, is in substantially the following form:*

**HEALTH WARNING**

*Smoking tobacco during pregnancy can cause birth defects, premature birth and low birth weight.*

*¡ADVERTENCIA!*

*Fumar tabaco durante el embarazo puede causar daño a su bebé al nacer, que nazca prematuro y que nazca bajo de peso.*

3. *The letters in the words "HEALTH WARNING" AND "¡ADVERTENCIA!" in the sign must be written in not less than 40-point type, and the letters in all other words in the sign must be written in not less than 30-point type.*

4. *The Health Division may:*

(a) *Provide by regulation for one or more alternative forms for the language of the warning to be included on the signs required by subsection 1 to increase the effectiveness of the signs. Each alternative form must contain substantially the same message as is stated in subsection 2.*

(b) *Solicit and accept donations of signs that satisfy the requirements of this section from a nonprofit organization or any other source. To the extent that such signs are donated, the Health Division shall distribute the signs upon request to retail establishments that are required to post signs.*

Sec. 2. NRS 202.2493 is hereby amended to read as follows:

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

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

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

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

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

(c) Reasonably relies upon the driver's license or written or documentary evidence presented by the person.

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

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

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

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

6. The owner of a retail establishment shall, whenever any product made from tobacco is being sold or offered for sale at the establishment, display prominently at the point of sale ~~the notice indicating that:~~

~~(a) The~~ :

~~(a) A notice indicating that the sale of cigarettes and other tobacco products to minors is prohibited by law; and~~

~~(b) The~~

~~(b) A notice indicating that the retailer may ask for proof of age to comply with this prohibition [ ]; and~~

~~(c) At least one sign that meets the requirements of section 1 of this act.~~

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

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

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

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

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

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

*Sec. 3. On or before December 31, 2009, each retail establishment in which cigarettes are sold or offered for sale shall comply with the requirements of section 1 of this act.*

*Sec. 4. 1. This section and sections 1 and 3 of this act become effective on July 1, 2009.*

*2. Section 2 of this act becomes effective on January 1, 2010.*

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Thank you, Mr. President. This amendment requires that the sign be placed in a location conspicuous to the patrons of the establishment rather than at the point of sale and requires compliance on or before December 1, 2009.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 169.

Bill read second time and ordered to third reading.

Assembly Bill No. 172.

Bill read second time and ordered to third reading.

Senate Bill No. 183.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 314.

"SUMMARY—Revises various provisions governing common-interest communities. (BDR 10-70)"

"AN ACT relating to common-interest communities; revising provisions relating to systems for obtaining solar or wind energy; revising the provisions governing the regulation of certain streets in common-interest communities; revising provisions concerning voting rights exercised by delegates or representatives; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; clarifying various provisions governing 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:

Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) Sections 1 and 45 of this bill specify the circumstances under which a specification regarding the color of such a system is enforceable.

Section 3 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 4 of this bill: (1) states that the provisions of chapter 116 of NRS do not 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.

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 5 of this bill prohibits a common-interest community from restricting the operation of motorcycles. Section 6 of this bill prohibits a common-interest community from using information from radar guns ~~as the basis for a fine or penalty.~~

~~Under existing law, a "common-interest community" is defined as "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." (NRS 116.021) Section 7 of this bill clarifies existing law with respect to this definition by providing explicitly that, as used in this definition, the term "real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common interest community."} or other devices unless the radar gun or device meets certain specifications and the person operating the radar gun or device meets certain qualifications.~~

Section 5.5 of this bill authorizes the Commission for Common-Interest Communities and Condominium Hotels, or the Administrator of the Real Estate Division of the Department of Business and Industry with the Commission's approval, to adopt regulations to require any additional disclosures in the sale of a unit as the Commission deems necessary.

Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be

exercised by delegates or representatives. (NRS 116.1201, 116.31105) Sections 8, 14, 15, 18, 20 and 21 of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. Also, sections 9 and 22 of this bill provide that this form of voting may occur only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated. A master association which governs a time-share plan created pursuant to chapter 119A of NRS is excluded from these new provisions and is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares.

~~Existing law provides that the declaration of a common interest community must contain certain information. (NRS 116.2105) Section 10 of this bill provides that the declaration must contain information concerning: (1) any restrictions on the ability of a unit's owner to rent or lease his unit; and (2) the specific obligations, duties and responsibilities of the association with respect to the maintenance, repair and replacement of specific common elements, specific limited common elements and other specific areas within the common interest community.~~

Section 11 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 46 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2009.

Section 12 of this bill provides that: (1) a unit's owner must receive notice of a violation and possible fine; (2) an association may not impose a fine against a unit's owner or tenant of a unit's owner for a vehicular violation of the governing documents committed by a person delivering goods to, or performing services for, a unit's owner or tenant of a unit's owner; (3) a member of the executive board cannot participate in hearings on fines if he has not paid his assessments; and (4) the association must provide written confirmation when a fine is paid. (NRS 116.31031)

~~Section 13 of this bill establishes priorities for the application of~~ *requires an association to establish an account for a unit owner's payments against assessments and for fines, unless the unit's owner has stated in writing that no portion of the payment is to be applied against fines or costs related thereto, which must be kept separate from any account established for assessments.* (NRS 116.310315)

Section 14 of this bill increases the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034) Section 14 also ~~adds items that candidates must disclose to units' owners in advance of the election, whether or not an election is to be held with balloting.~~ *provides that an association is not obligated to distribute any disclosure made by a candidate for the executive board if the disclosure contains information that is believed to be defamatory, libelous or profane.*

Section 16 of this bill requires that a declarant deliver to an association an ancillary audit of the association's money and audited financial statements from the date of the last audit until the date the declarant's control ends. (NRS 116.31038) Section 14 also requires the declarant to pay for the costs of the ancillary audit.

Sections 35-37 and 39-44 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.750, 116A.120, 116A.260, 116A.420-116A.900)

Section 19 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083)

Section 23 of this bill revises provisions relating to financial statements for certain associations. (NRS 116.31144)

Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152) Section 24 of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves.

~~f Section 25 of this bill establishes the criteria for evaluating the adequacy of the reserves of an association. (NRS 116.31152)~~

Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) Section 26 of this bill also requires certain signatures before money in the operating account of an association may be withdrawn. ~~f~~

~~Section 27 of this bill provides that the sale of a unit as a result of a foreclosure of a lien is subject to an equity or right of redemption. (NRS 116.31166). unless the withdrawal is to transfer money to the reserve account or to make automatic payments for utilities.~~

Section 28 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175) Section 28 also provides that if an official publication contains any mention of a candidate or ballot question or 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 28 provides immunity from criminal or civil liability for an association and its*

officers, employees and agents who publish or disclose information pursuant to the duties imposed by this section.

Section 29 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187)

Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) Section 30 of this bill provides that unless at the time a unit's owner purchases his unit the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.

Section 31 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 32 of this bill prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Existing law provides that an association may charge certain fees for furnishing certain documents and certificates in connection with the resale of a unit. (NRS 116.4109) Section 33 of this bill provides that if the association enters into a contract or agreement with any person or entity to furnish such documents or certificates, the contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association itself may charge. Additionally, section 33 provides that an association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except it may charge a fee to transfer the unit to a new owner in the association books and records based on the actual cost incurred.

Section 34 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a registered agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

Section 38 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances.

In addition, section 38 requires the posting of bonds by community managers in an amount established by regulation, based on a sliding scale. (NRS 116A.410)

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

Section 1. NRS 111.239 is hereby amended to read as follows:

111.239 1. ~~Any~~ Except as otherwise provided in subsection 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.

2. A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:

(a) In existence on July 1, 2007; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

3. For the purposes of this section ~~["unreasonably"]~~ :

(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.

(b) "Governing documents" has the meaning ascribed to it in NRS 116.049.

(c) "Unit" has the meaning ascribed to it in NRS 116.093.

(d) "Unreasonably restricts 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. 2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

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 ~~["and"]~~ :

(a) 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.

(b) A member of an executive board shall not be deemed to gain any personal profit or compensation solely because the member of the executive board is the owner of a unit in the common-interest community.

Sec. 4. 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. 5. 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. 5.5. The Commission, or the Administrator with the approval of the Commission, may adopt regulations to require any additional disclosures in the case of a sale of a unit as it deems necessary.

Sec. 6. ~~¶¶~~ 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.} unless:~~

1. The radar gun or other device:

(a) Is, or was at the time of purchase, on the Conforming Product List of the International Association of Chiefs of Police; and

*(b) Is inspected at least every 3 years to determine whether its level of power and structural integrity comply with the minimum performance specifications for that model established by the United States Department of Transportation; and*

*2. The person operating the radar gun or other device has successfully completed a course of training in the proper use of the radar gun or other device.*

Sec. 7. ~~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.~~

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

~~(a) "Ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.~~

~~(b) "Real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common interest community" pursuant to this section.} (Deleted by amendment.)~~

Sec. 8. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

- (1) Shall pay the fees required pursuant to NRS 116.31155;
- (2) Shall register with the Ombudsman pursuant to NRS 116.31158;
- (3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes

would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; ~~or~~

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government ~~[-]~~, *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; or*

(e) *Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan.*

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the

limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) ~~Prohibit~~ *Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit* a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; or

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 10. ~~NRS 116.2105 is hereby amended to read as follows:~~

~~116.2105 1. The declaration must contain:~~

~~(a) The names of the common interest community and the association and a statement that the common interest community is either a condominium, cooperative or planned community;~~

~~(b) The name of every county in which any part of the common interest community is situated;~~

~~(c) A sufficient description of the real estate included in the common interest community;~~

~~(d) A statement of the maximum number of units that the declarant reserves the right to create;~~

~~(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats~~

~~or plans, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;~~

~~(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;~~

~~(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;~~

~~(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised;~~

~~(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:~~

~~(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and~~

~~(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;~~

~~(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;~~

~~(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;~~

~~(l) Any restrictions:~~

~~(1) On use, occupancy and alienation of the units [:], including, without limitation, a clear and conspicuous statement written in plain English, in bold type and in a font that is easy to read indicating whether a unit's owner is prohibited from renting or leasing his unit and whether a unit's owner is required to secure or obtain any approval from the association in order to rent or lease his unit; and~~

~~(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common interest community, or on termination of the common interest community;~~

~~(m) A statement written in plain English:~~

~~(1) Describing the provisions of NRS 116.3107 pertaining to the responsibility of the association for maintenance, repair and replacement of~~

~~the common elements and the responsibility of each unit's owner for maintenance, repair and replacement of his unit; and~~

~~(2) Identifying and describing the specific obligations, duties and responsibilities of the association with respect to the maintenance, repair and replacement of specific common elements, specific limited common elements~~

~~and other specific areas within the common interest community and identifying and describing any limitations or restrictions on such obligations, duties and responsibilities of the association;~~

~~(n) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the common interest community or to which any portion of the common interest community is or may become subject by virtue of a reservation in the declaration; and~~

~~[(n)] (o) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115 and 116.2116 and 116.3103.~~

~~2. The declaration may contain any other matters the declarant considers appropriate. (Deleted by amendment.)~~

Sec. 11. 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. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 12. 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~~ invitee 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~~ invitee 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~~ invitee 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~~ invitee of the unit's owner for each violation, except that ~~it~~ :

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305 ~~;~~ ; and

(2) A fine may not be imposed against a unit's owner or a tenant or ~~guest~~ invitee of a unit's owner for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or ~~guest~~ invitee of the unit's owner.

➔ 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 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 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~~ mailed 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 or* residents 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*~~ *If requested by a person upon whom a fine was imposed, not later than ~~{30}~~ 60 days after receiving any 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.~~ a statement of the remaining balance owed.*

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. 13. 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~~ *invitee* of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~shall~~ *shall* ~~for~~

~~1.] [Shall, 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.] establish a compliance account to account for the fine, which must be separate from any account established for assessments.~~

Sec. 14. 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 ~~is~~

~~(1) Has~~ any unpaid and past due assessments or construction penalties that are required to be paid to the association ~~.~~ ~~is~~

~~(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]~~ Except as otherwise provided in this subsection, the association shall distribute the disclosures , on behalf of the candidate, to each member of the association with the ballot in the manner established in the bylaws of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

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 NRS 116.31105, 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:* in the following manner:

(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. 15. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a

member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. ~~The~~ *Except as otherwise provided in NRS 116.31105, the removal 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 removal of a member of the executive board is conducted by secret written ballot:* in the following manner:

(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) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) 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.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, 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.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 16. 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. 17. 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. 18. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the

special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the ~~units~~ owners of *time shares* will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, 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. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. 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.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a

matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. 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 meeting 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.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner 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.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. 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 3 or 4.

Sec. 19. 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 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 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. 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. 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. 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. 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. Except as otherwise provided in subsection 9 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. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. 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. 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.

Sec. 20. NRS 116.311 is hereby amended to read as follows:

116.311 1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to that unit without protest made promptly to the person presiding over the meeting by any of the other owners of the unit.

2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

3. Before a vote may be cast pursuant to a proxy:

- (a) The proxy must be dated.
- (b) The proxy must not purport to be revocable without notice.
- (c) The proxy must designate the meeting for which it is executed.
- (d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.

4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.

5. ~~[A]~~ *Except as otherwise provided in this subsection, a vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association.* ~~[unless]~~ *A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.*

6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.

8. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 21. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[ ]~~ *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[ ]~~ *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

3. *In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the*

owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

~~4~~ 5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

~~5~~ 7. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written 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) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative 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 in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

Sec. 22. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. ~~116~~ Except as otherwise provided in subsection 8, if the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

2. ~~116~~ Except as otherwise provided in subsection 8, in addition to a common-interest community identified in subsection 1, if the declaration so

provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

3. In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

7. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written 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) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative 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 in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

8. *Except as otherwise provided in subsection 9, the voting rights of the units' owners in the association for a common-interest community may be*

exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.

9. The provisions of subsection 8 do not apply to:

(a) A time-share plan created pursuant to chapter 119A of NRS which is governed by a master association; or

(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.

Sec. 23. 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~~ reviewed by an independent certified public accountant ~~{a person deemed qualified by the association to conduct such an audit}~~ 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~~ 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 ~~+~~

~~(a) A person deemed qualified by the association to conduct such an audit if the annual budget of the association is less than \$75,000; or~~

~~(b) An~~ independent certified public accountant ~~{if the annual budget of the association is \$75,000 or more,~~

~~+~~ 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 ~~+~~; and

(c) *The requirement that an audit or review of the financial statements of an association be completed within ~~180~~ 210 days after the end of the fiscal year.*

Sec. 24. 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 conducted pursuant to NRS 116.31152 and an annual review of the results of that study pertaining to whether the amount of the 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 conducted.]~~*

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. 25. ~~[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 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 [.] , unless the association contains 20 or fewer units and is located in a county whose population is 45,000 or less, and then the study must be conducted by a person deemed qualified by the executive board to conduct such a study.~~

~~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. *(Deleted by amendment.)*~~

Sec. 26. NRS 116.31153 is hereby amended to read as follows:

116.31153 1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. ~~Money~~ *Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.*

3. *Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:*

*(a) Transfer money to the reserve account of the association at regular intervals; or*

*(b) Make automatic payments for utilities.*

Sec. 27. ~~[NRS 116.31166 is hereby amended to read as follows:~~

~~116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:~~

~~(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;~~

~~(b) The elapsing of the 90 days; and~~

~~(c) The giving of notice of sale;~~

~~are conclusive proof of the matters recited.~~

~~2. Such a deed containing those recitals is conclusive against the unit's former owner, his heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.~~

~~3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 [vests in the purchaser the title of the unit's owner without] is subject to an equity or right of redemption [...] as provided in this section.~~

~~4. Upon the sale of a unit:~~

~~(a) The purchaser acquires all the right, title, interest and claim of the unit's owner thereto; and~~

~~(b) The purchaser must receive a certificate of sale in recordable form which must state:~~

~~(1) The description of the unit sold;~~

~~(2) The price bid for the unit sold; and~~

~~(3) That the unit is subject to redemption within 120 days after the date of the sale.~~

~~5. A copy of the certificate of sale must be posted on the door of the unit, with a copy mailed first class, postage prepaid, to the addresses of the unit's owner and persons entitled to redeem as indicated in the records of the association and the last known address as shown in the records of the county.~~

~~6. A person who purchases a unit at a sale pursuant to this section may not transfer ownership of the unit to a person other than a unit's owner or redemptioner during the redemption period.~~

~~7. A unit sold subject to redemption, as provided in this section, may be redeemed within 120 days after the date of the sale in the manner hereinafter provided by the following persons or their successors in interest:~~

~~(a) The unit's owner or a successor in interest with a recorded interest in the whole or any part of the unit.~~

~~(b) A creditor having a security interest on the unit sold or on some share or part thereof.~~

~~8. To redeem a unit purchased at a sale pursuant to this section, the unit's owner or redemptioner must pay to the purchaser:~~

~~(a) The amount the purchaser paid for the unit at the sale;~~

~~(b) The amount of the fee for recording the certificate of sale; and~~

~~(c) The amount paid by the purchaser for property taxes and assessments, including, without limitation, assessments due under any applicable declaration, any penalties, interest and costs on the unit, and any applicable real property transfer taxes.~~

~~9. Written notice of redemption in recordable form must be given to the redemptioner by the purchaser at the time of payment.~~

~~10. If the property is not redeemed within the 120 day period, then the purchaser or his assignee is entitled to a deed to the property from the association. (Deleted by amendment.)~~

Sec. 28. 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. *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. *The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.*

9. *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. 29. 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. 30. NRS 116.335 is hereby amended to read as follows:

116.335 1. ~~Except as otherwise provided in~~ *Unless, at the time a unit's owner purchased his unit, the declaration ~~is~~ prohibited the unit's owner from renting or leasing his unit, the association may not prohibit the unit's owner from renting or leasing his unit.*

2. *Unless, at the time a unit's owner purchased his unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, an association may not require ~~the~~ the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.*

~~2.~~ 3. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

Sec. 31. 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. 32. 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 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 and which requires the person to park the vehicle overnight at his residence 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 and which requires the person to park the vehicle overnight at his residence 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. 33. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall, ~~at his own expense,~~ the expense of the unit's owner, furnish to a purchaser a resale package ~~containing~~ which is purchased directly from the association and which contains all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in ~~paragraphs (a) to (e), inclusive, of~~ subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. *If the association enters into a contract or agreement with any person or entity to furnish the documents and certificate pursuant to subsection 3:*

*(a) The contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association may charge pursuant to subsection 4; and*

*(b) The person or entity shall not charge or attempt to charge any such fee.*

6. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

~~6.7~~ 7. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

8. *The association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized pursuant to this section, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee,*

*except the association may charge the unit's owner a reasonable fee to cover the cost of recording in the books and records of the association the transfer of the ownership of the unit. Such a fee must be based on the actual cost the association incurs to record the transfer of the ownership of the unit. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for transferring the ownership of a unit.*

Sec. 34. 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 registered 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. 35. 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. 36. NRS 116A.120 is hereby amended to read as follows:

116A.120 ~~["Permit"]~~ "Registration" means ~~a permit~~ a registration to conduct a study of the reserves of an association pursuant to NRS 116.31152 or 116B.605 ~~issued by~~ with the Division pursuant to this chapter.

Sec. 37. 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. 38. 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 ~~+~~ or its agent; and*

*(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent 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 or its agent 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) *Must require an applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.*

(c) *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.*

~~+(e)~~ (d) *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.*

~~+(e)~~ (e) *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)~~ (f) *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. 39. 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 chapters 116 and 116B 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 or 116B 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. 40. 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. 41. 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. 42. 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* ~~for 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* ~~for 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* ~~for 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* ~~for 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* ~~for permit~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 43. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a *registration or certificate* ~~for 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* ~~for permit~~ by the *person who is registered or the holder of the certificate* ~~for 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* ~~for permit~~ as authorized pursuant to the provisions of this chapter or chapter 116 or 116B 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 or 116B of NRS or the regulations adopted pursuant thereto against the *person who is registered or the holder of the certificate* ~~for permit~~.

Sec. 44. 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* ~~for permit~~ is required pursuant to this chapter or chapter 116 or 116B of NRS, or any regulation adopted pursuant thereto, if the person *has not registered or does not hold the required certificate* ~~for 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 or 116B of NRS if:

- (a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 or 116B 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. 45. 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~~ Except as otherwise provided in subsection 3, 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. A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:

- (a) In existence on July 1, 2009; or
- (b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

4. For the purposes of this section ~~[- "unreasonably"]~~ :

- (a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.
- (b) "Governing documents" has the meaning ascribed to it in NRS 116.049.
- (c) "Unit" has the meaning ascribed to it in NRS 116.093.

(d) "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. 46. The amendatory provisions of section 11 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, 2009.

Sec. 47. 1. This section becomes effective upon passage and approval.

2. Section 38 of this act becomes effective:

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

(b) On January 1, 2010, for all other purposes.

3. Section 34 of this act becomes effective on July 1, 2009.

4. Sections 1 to 8, inclusive, 10 to 21, inclusive, 23 to 33, inclusive, 35, 36, 37 and 39 to 46, inclusive, of this act become effective on October 1, 2009.

5. Sections 9 and 22 of this act become effective on October 1, 2011.

6. Sections 41 and 42 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 Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

This is the second bill I referred to earlier, the twin to Senate Bill No. 182. The amendment clarifies when a member of an executive board stands to gain any personal profit from matters before the board. It allows for the adoption of regulations by the Commission for Common-Interest Communities and Condominium Hotels or the Real Estate Division, for additional disclosures at the time of a sale. It revises provisions for the use of radar guns to allow for their use under certain circumstances. It removes the revised definition of "common-interest community" and changes to the contents of a declaration. It amends provisions for fines imposed against a unit's owner, tenant or invitee for certain violations so that the association must establish a compliance account to account for the fine. It changes the information that must be disclosed prior to an election so that an association need not distribute any such information if it contains information that is defamatory or libelous, and it provides immunity from criminal or civil liability for an association and its officers or employees who publish or disclose certain information.

Amendment adopted.

The following amendment was proposed by Senator Schneider:

Amendment No. 494.

"SUMMARY—Revises various provisions governing common-interest communities. (BDR 10-70)"

"AN ACT relating to common-interest communities; revising provisions relating to systems for obtaining solar or wind energy; revising the provisions governing the regulation of certain streets in common-interest communities; revising provisions concerning voting rights exercised by delegates or representatives; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; clarifying various provisions governing 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:

Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) Sections 1 and 45 of this bill specify the circumstances under which a specification regarding the color of such a system is enforceable.

Section 3 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 4 of this bill: (1) states that the provisions of chapter 116 of NRS do not 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.

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 5 of this bill prohibits a common-interest community from restricting the operation of motorcycles. Section 6 of this bill prohibits a common-interest community from using information from radar guns as the basis for a fine or penalty.

Under existing law, a "common-interest community" is defined as "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." (NRS 116.021) Section 7 of this bill clarifies existing law with respect to this definition by providing explicitly that, as used in this definition, the term "real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants,

conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common-interest community."

Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) Sections 8, 14, 15, 18, 20 and 21 of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. Also, sections 9 and 22 of this bill provide that this form of voting may occur only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated. A master association which governs a time-share plan created pursuant to chapter 119A of NRS is excluded from these new provisions and is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares. *A master association which governs a planned community that is exempt from the provisions of chapter 116 of NRS is also excluded from these new provisions.*

Existing law provides that the declaration of a common-interest community must contain certain information. (NRS 116.2105) Section 10 of this bill provides that the declaration must contain information concerning: (1) any restrictions on the ability of a unit's owner to rent or lease his unit; and (2) the specific obligations, duties and responsibilities of the association with respect to the maintenance, repair and replacement of specific common elements, specific limited common elements and other specific areas within the common-interest community.

Section 11 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 46 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2009.

Section 12 of this bill provides that: (1) a unit's owner must receive notice of a violation and possible fine; (2) an association may not impose a fine against a unit's owner or tenant of a unit's owner for a vehicular violation of the governing documents committed by a person delivering goods to, or performing services for, a unit's owner or tenant of a unit's owner; (3) a member of the executive board cannot participate in hearings on fines if he has not paid his assessments; and (4) the association must provide written confirmation when a fine is paid. (NRS 116.31031)

Section 13 of this bill establishes priorities for the application of a unit owner's payments against assessments and fines, unless the unit's owner has stated in writing that no portion of the payment is to be applied against fines or costs related thereto. (NRS 116.310315)

Section 14 of this bill increases the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034) Section 14 also adds items that candidates must disclose to units' owners in advance of the election, whether or not an election is to be held with balloting.

Section 16 of this bill requires that a declarant deliver to an association an ancillary audit of the association's money and audited financial statements from the date of the last audit until the date the declarant's control ends. (NRS 116.31038) Section 14 also requires the declarant to pay for the costs of the ancillary audit.

Sections 35-37 and 39-44 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.750, 116A.120, 116A.260, 116A.420-116A.900)

Section 19 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083)

Section 23 of this bill revises provisions relating to financial statements for certain associations. (NRS 116.31144)

Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152)

Section 24 of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves.

Section 25 of this bill establishes the criteria for evaluating the adequacy of the reserves of an association. (NRS 116.31152)

Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) Section 26 of this bill also requires certain signatures before money in the operating account of an association may be withdrawn.

Section 27 of this bill provides that the sale of a unit as a result of a foreclosure of a lien is subject to an equity or right of redemption. (NRS 116.31166)

Section 28 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175) Section 28 also provides that if an official publication contains any mention of a candidate or ballot question or 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.

Section 29 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187)

Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) Section 30 of this bill provides that unless at the time a unit's owner purchases his unit the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.

Section 31 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 32 of this bill prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Existing law provides that an association may charge certain fees for furnishing certain documents and certificates in connection with the resale of a unit. (NRS 116.4109) Section 33 of this bill provides that if the association enters into a contract or agreement with any person or entity to furnish such documents or certificates, the contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association itself may charge. Additionally, section 33 provides that an association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except it may charge a fee to transfer the unit to a new owner in the association books and records based on the actual cost incurred.

Section 34 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a registered agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

Section 38 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances.

In addition, section 38 requires the posting of bonds by community managers in an amount established by regulation, based on a sliding scale. (NRS 116A.410)

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

Section 1. NRS 111.239 is hereby amended to read as follows:

111.239 1. ~~Any~~ *Except as otherwise provided in subsection 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.*

2. *A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:*

(a) *In existence on July 1, 2007; or*

(b) *Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.*

3. For the purposes of this section ~~["unreasonably"]~~ :

(a) *"Common-interest community" has the meaning ascribed to it in NRS 116.021.*

(b) *"Governing documents" has the meaning ascribed to it in NRS 116.049.*

(c) *"Unit" has the meaning ascribed to it in NRS 116.093.*

(d) *"Unreasonably restricts 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. 2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

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 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. 5. 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. 6. 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. 7. 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.*

2. *As used in this section:*

(a) *"Ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.*

(b) *"Real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common-interest community" pursuant to this section.*

Sec. 8. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

- (1) Shall pay the fees required pursuant to NRS 116.31155;
- (2) Shall register with the Ombudsman pursuant to NRS 116.31158;
- (3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; ~~for~~

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government ~~[ ]~~, *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; ~~for~~*

(e) *Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan ~~for~~; or*

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) ~~Prohibit~~ *Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit* a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; ~~or~~

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan ~~;~~ *or*

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and

other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 10. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats or plans, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common

elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units ~~+~~, *including, without limitation, a clear and conspicuous statement written in plain English, in bold type and in a font that is easy to read indicating whether a unit's owner is prohibited from renting or leasing his unit and whether a unit's owner is required to secure or obtain any approval from the association in order to rent or lease his unit; and*

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) *A statement written in plain English:*

(1) *Describing the provisions of NRS 116.3107 pertaining to the responsibility of the association for maintenance, repair and replacement of the common elements and the responsibility of each unit's owner for maintenance, repair and replacement of his unit; and*

(2) *Identifying and describing the specific obligations, duties and responsibilities of the association with respect to the maintenance, repair and replacement of specific common elements, specific limited common elements*

*and other specific areas within the common-interest community and identifying and describing any limitations or restrictions on such obligations, duties and responsibilities of the association;*

(n) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

~~(o)~~ (o) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115 and 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 11. 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. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any*

*other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.*

Sec. 12. 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 ~~that~~ :

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305 ~~+~~; and

(2) A fine may not be imposed against a unit's owner or a tenant or guest of a unit's owner for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or guest of the unit's owner.

➤ 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 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 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 or* residents 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. 13. 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. 14. 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~~ :

(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 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}~~ *Except as otherwise provided in NRS 116.31105, 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:}~~ in the following manner:*

(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. 15. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. ~~{The}~~ *Except as otherwise provided in NRS 116.31105, the removal 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 removal of a member of the executive board is conducted by secret written ballot:}~~ in the following manner:*

(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) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) 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.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, 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.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 16. 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. 17. 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. 18. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the ~~units~~ owners *of time shares* will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, 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. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. 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.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. 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 meeting 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.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner 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.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. 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 3 or 4.

Sec. 19. 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 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 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. 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. 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. 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. 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. Except as otherwise provided in subsection 9 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. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. 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. 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.

Sec. 20. NRS 116.311 is hereby amended to read as follows:

116.311 1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the

votes allocated to that unit without protest made promptly to the person presiding over the meeting by any of the other owners of the unit.

2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

3. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed.

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.

4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.

5. ~~{A}~~ *Except as otherwise provided in this subsection, a vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association . ~~{unless}~~ A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.*

6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.

8. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 21. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~{ }~~ *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~{ }~~ *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

3. *In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.*

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

~~{4.}~~ 5. *For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.*

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

~~{5-}~~ 7. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written 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) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative 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 in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

Sec. 22. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. ~~{H}~~ *Except as otherwise provided in subsection 8, if the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

2. ~~{H}~~ *Except as otherwise provided in subsection 8, in addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*

3. *In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.*

4. *For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which*

developmental rights exist must be counted in determining the number of units in a common-interest community.

5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

7. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written 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) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative 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 in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

8. *Except as otherwise provided in subsection 9, the voting rights of the units' owners in the association for a common-interest community may be exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.*

9. *The provisions of subsection 8 do not apply to:*

*(a) A time-share plan created pursuant to chapter 119A of NRS which is governed by a master association; or*

*(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.*

Sec. 23. 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~~ *a person deemed qualified by the association to conduct such an audit* 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~~ :

(a) *A person deemed qualified by the association to conduct such an audit if the annual budget of the association is less than \$75,000; or*

(b) *An independent certified public accountant if the annual budget of the association is \$75,000 or more,*

↳ 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 ~~and~~ ; *and*

(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.*

Sec. 24. 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 conducted pursuant to NRS 116.31152 and an annual review of the results of that study pertaining to whether the amount of the 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 conducted.*

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. 25. 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 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 †*, *unless the association contains 20 or fewer units and is located in a county whose population is 45,000 or less, and then the study must be conducted by a person deemed qualified by the executive board to conduct such a study.*

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. 26. NRS 116.31153 is hereby amended to read as follows:

116.31153 1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. *Money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.*

Sec. 27. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:

(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

↪ are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 ~~[vests in the purchaser the title of the unit's owner without]~~ *is subject to an equity or right of redemption [ ] as provided in this section.*

4. *Upon the sale of a unit:*

(a) *The purchaser acquires all the right, title, interest and claim of the unit's owner thereto; and*

(b) *The purchaser must receive a certificate of sale in recordable form which must state:*

(1) *The description of the unit sold;*

(2) *The price bid for the unit sold; and*

(3) *That the unit is subject to redemption within 120 days after the date of the sale.*

5. *A copy of the certificate of sale must be posted on the door of the unit, with a copy mailed first class, postage prepaid, to the addresses of the unit's owner and persons entitled to redeem as indicated in the records of the association and the last known address as shown in the records of the county.*

6. *A person who purchases a unit at a sale pursuant to this section may not transfer ownership of the unit to a person other than a unit's owner or redemptioner during the redemption period.*

7. *A unit sold subject to redemption, as provided in this section, may be redeemed within 120 days after the date of the sale in the manner hereinafter provided by the following persons or their successors in interest:*

(a) *The unit's owner or a successor in interest with a recorded interest in the whole or any part of the unit.*

(b) *A creditor having a security interest on the unit sold or on some share or part thereof.*

8. *To redeem a unit purchased at a sale pursuant to this section, the unit's owner or redemptioner must pay to the purchaser:*

(a) *The amount the purchaser paid for the unit at the sale;*

(b) *The amount of the fee for recording the certificate of sale; and*

(c) *The amount paid by the purchaser for property taxes and assessments, including, without limitation, assessments due under any applicable declaration, any penalties, interest and costs on the unit, and any applicable real property transfer taxes.*

9. *Written notice of redemption in recordable form must be given to the redemptioner by the purchaser at the time of payment.*

10. *If the property is not redeemed within the 120-day period, then the purchaser or his assignee is entitled to a deed to the property from the association.*

Sec. 28. 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. *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. 29. 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. 30. NRS 116.335 is hereby amended to read as follows:

116.335 1. ~~{Except as otherwise provided in}~~ *Unless, at the time a unit's owner purchased his unit, the declaration ~~{}~~ prohibited the unit's owner from renting or leasing his unit, the association may not prohibit the unit's owner from renting or leasing his unit.*

2. *Unless, at the time a unit's owner purchased his unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, an association may not require ~~{a}~~ the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.*

~~{2.}~~ 3. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

Sec. 31. 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. 32. 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 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. 33. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall, *at his own expense*, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in ~~paragraphs (a) to (e), inclusive, of~~ subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to

the common-interest community of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

- (a) Cancel the contract pursuant to this subsection; or
- (b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

- (a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and
- (b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. *If the association enters into a contract or agreement with any person or entity to furnish the documents and certificate pursuant to subsection 3:*

(a) *The contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association may charge pursuant to subsection 4; and*

(b) *The person or entity shall not charge or attempt to charge any such fee.*

6. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

~~6.~~ 7. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

8. *The association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized pursuant to this section, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except the association may charge the unit's owner a reasonable fee to cover the cost of recording in the books and records of the association the transfer of the ownership of the unit. Such a fee must be based on the actual cost the association incurs to record the transfer of the ownership of the unit. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for transferring the ownership of a unit.*

Sec. 34. 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 registered 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. 35. 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. 36. NRS 116A.120 is hereby amended to read as follows:

116A.120 ~~["Permit"]~~ *"Registration"* means ~~a permit~~ *a registration* to conduct a study of the reserves of an association pursuant to NRS 116.31152 or 116B.605 ~~issued by~~ *with* the Division pursuant to this chapter.

Sec. 37. 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 . ~~for permit.~~

Sec. 38. 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:*

(1) *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) Must require an applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.

(c) 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.

~~{(e)}~~ (d) 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)}~~ (e) 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)}~~ (f) 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. 39. 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 chapters 116 and 116B 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 or 116B 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. 40. 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. 41. 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 ; ~~for permit;~~ or

(b) A separate form prescribed by the Division.

3. A certificate ~~for 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. 42. 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 , ~~for permit,~~ the Division shall deem the *registration or* certificate ~~for 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 ~~for 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 ~~for 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 ~~for 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 ~~for permit~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 43. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a *registration or* certificate ~~for 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 ~~for permit~~ by the *person who is registered or the* holder of the certificate ~~for 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 ~~for permit~~ as authorized

pursuant to the provisions of this chapter or chapter 116 or 116B 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 or 116B of NRS or the regulations adopted pursuant thereto against the *person who is registered or the holder of the certificate* . ~~for permit.~~

Sec. 44. 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* ~~for permit~~ is required pursuant to this chapter or chapter 116 or 116B of NRS, or any regulation adopted pursuant thereto, if the person *has not registered or* does not hold the required certificate ~~for 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 or 116B of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 or 116B 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. 45. 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~~ Except as otherwise provided in subsection 3, 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. A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:

(a) In existence on July 1, 2009; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.

4. For the purposes of this section ~~["unreasonably"]~~:

(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.

(b) "Governing documents" has the meaning ascribed to it in NRS 116.049.

(c) "Unit" has the meaning ascribed to it in NRS 116.093.

(d) "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. 46. The amendatory provisions of section 11 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, 2009.

Sec. 47. 1. This section becomes effective upon passage and approval.

2. Section 38 of this act becomes effective:

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

(b) On January 1, 2010, for all other purposes.

3. Section 34 of this act becomes effective on July 1, 2009.

4. Sections 1 to 8, inclusive, 10, 11, 12, 14 to 21, inclusive, 23 to 33, inclusive, 35, 36, 37 and 39 to 46, inclusive, of this act become effective on October 1, 2009.

5. Sections 9, 13 and 22 of this act become effective on October 1, 2011.

6. Sections 41 and 42 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 Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and Care.

Senator Schneider requested that the following remarks be entered in the Journal.

SENATOR SCHNEIDER:

We had a list of provisions we gave to the Committee on Judiciary. One provision was dropped. It was misplaced. This addresses some of the association problems in Summerlin. It states, "Prohibits a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government."

This pertains to mixed-use communities. There are commercial and residential together out there. They wanted that in, and I did not see a problem with that. They wanted a date change for the computer systems they are adopting. They needed an extra year to get their computer systems on line to adjust to some of the changes that are being made.

SENATOR CARE:

Are there any residential units in these mixed-use master associations that would be exempt under chapter 116?

SENATOR SCHNEIDER:

No, they are not exempt. It has to do with how the voting goes and the commercial is separate from the residential. No residential units are exempted. All residential units are in.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 261.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 308.

"SUMMARY—Makes various changes relating to common-interest ownership. (BDR 10-789)"

"AN ACT relating to common-interest ownership; revising the provisions governing the applicability of the Uniform Common-Interest Ownership Act; enacting certain provisions governing master-planned communities; making various other changes relating to common-interest ownership; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes various changes relating to common-interest ownership to: (1) incorporate certain revisions to the Uniform Common-Interest Ownership Act promulgated by the Uniform Law Commission; and (2) eliminate references to the preparation of certain plans regarding certain common-interest communities and condominium hotels.

Sections 2, 3, 6 and 9 of this bill provide that the provisions of the Uniform Act only apply to a nonresidential condominium if the declaration so provides.

Sections 4 and 7 of this bill clarify the applicability of the Uniform Act by revising the definition of "common-interest community" to: (1) reflect the revisions promulgated by the Uniform Law Commission; and (2) clarify that certain agreements to share expenses do not create a common-interest community. (NRS 116.021)

Section 5 of this bill allows a declaration for a common-interest community to state that the common-interest community is a master-planned ~~planned~~ community under certain circumstances.

Sections 8 and 10-26 of this bill eliminate references to the preparation of certain plans for certain common-interest communities and condominium hotels. (NRS 116.089, 116.1206, 116.2105, 116.2109, 116.211, 116.2112, 116.2113, 116.2114, 116.2117, 116.345, 116.4103, 116.4109, ~~116.4119,~~ 116B.225, 116B.295, 116B.350, 116B.365, 116B.760)

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 the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Nonresidential condominium" means a condominium in which all units are restricted exclusively to nonresidential use.*

Sec. 3. 1. *The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:*

- (a) This entire chapter applies to the condominium;*
- (b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and NRS 116.3116 to 116.31168, inclusive, apply to the condominium; or*
- (c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the condominium.*

2. *If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:*

- (a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and*
- (b) Notwithstanding NRS 116.1104 and subsection 2 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar*

devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 4. 1. An agreement between the associations for two or more common-interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate or other activities specified in the agreement or declarations does not create a separate common-interest community. If the declarants of the common-interest communities are affiliates, the agreement may not unreasonably allocate the costs among those common-interest communities.

2. An agreement between an association and the owner of real estate that is not part of a common-interest community to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate, or other activities specified in the agreement, does not create a separate common-interest community. However, the assessments against the units in the common-interest community required by the agreement must be included in the periodic budget for the common-interest community, and the agreement must be disclosed in all public offering statements and resale certificates required by this chapter.

3. An agreement between the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, road, driveway or well or other similar use does not create a common-interest community unless the owners otherwise agree.

4. As used in this section, "party wall" means any wall or fence constructed along the common boundary line between parcels. The term does not include any shared building structure systems, including, without limitation, foundations, walls and roof structures.

Sec. 5. 1. The declaration for a common-interest community may state that it is a master-planned community if the declarant has reserved the development right to create at least 1,000 units that may be used for residential purposes and, at the time of the reservation, that the declarant owns or controls more than 500 acres on which the units may be built.

2. If the requirements of subsection 1 are satisfied, the declaration for the master-planned community need not state a maximum number of units and need not contain any of the information required pursuant to paragraphs (c) to ~~(((m))~~ (m), inclusive, of subsection 1 of NRS 116.2105, until the declaration is amended pursuant to subsection 3.

3. When each unit in a master-planned community is conveyed to a purchaser, the declaration must contain:

(a) A sufficient legal description of the unit and all portions of the master-planned community in which any other units have been conveyed to a purchaser; and

(b) All the information required by paragraphs (c) to ~~(((m))~~ (m), inclusive, of subsection 1 of NRS 116.2105 with respect to that real estate.

4. The only real estate in a master-planned community which is subject to this chapter is units that have been declared or which are being offered for

*sale and any other real estate described pursuant to subsection 3. Other real estate that is or may become part of the master-planned community is only subject to other law and to any other restrictions and limitations that appear of record.*

*5. If the public offering statement conspicuously identifies the fact that the community is a master-planned community, the disclosure requirements contained in NRS 116.4101 to 116.412, inclusive, apply only with respect to units that have been declared or are being offered for sale in connection with the public offering statement and to the real estate described pursuant to subsection 3.*

*6. Limitations in this chapter on the addition of unspecified real estate do not apply to a master-planned community.*

*7. The period of declarant control of the association for a master-planned community terminates in accordance with any conditions specified in the declaration or otherwise at the time the declarant, in a recorded instrument and after giving written notice in a record to all the units' owners, voluntarily surrenders all rights to control the activities of the association.*

Sec. 6. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter and in the declaration and bylaws of an association, unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 7. NRS 116.021 is hereby amended to read as follows:

116.021 1. "Common-interest community" means real estate *described in a declaration* with respect to which a person, by virtue of ~~his~~ *the person's* ownership of a unit, is obligated to pay for a *share of* real estate taxes, insurance premiums, maintenance or improvement of, or services or other expenses related to, common elements, other units or other ~~than that unit.~~ *"Ownership"* real estate described in that declaration.

2. *The term does not include an agreement described in section 4 of this act.*

3. *For purposes of 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.*

Sec. 8. NRS 116.089 is hereby amended to read as follows:

116.089 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats ~~and plans~~ or in the declaration (NRS 116.2109) or, in a cooperative, to complete improvements described in the public offering statement pursuant to subsection 2 of NRS 116.4103;

2. Exercise any developmental right (NRS 116.211);

3. Maintain sales offices, management offices, signs advertising the common-interest community and models (NRS 116.2115);

4. Use easements through the common elements for the purpose of making improvements within the common-interest community or within real estate which may be added to the common-interest community (NRS 116.2116);

5. Make the common-interest community subject to a master association (NRS 116.212);

6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership (NRS 116.2121); or

7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant's control (NRS 116.31032).

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter *or a part of this chapter* does apply to that planned community ~~[-] pursuant to section 3 of this act~~. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 10. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to the declaration, bylaws or ~~plats and plans~~ of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance

with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats ~~and plans~~ authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 11. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats , ~~for plans,~~ of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

(n) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115 and 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 12. NRS 116.2109 is hereby amended to read as follows:

116.2109 1. Plats ~~and plans~~ are a part of the declaration, and are required for all common-interest communities except cooperatives. Each plat ~~and plan~~ must be clear and legible and contain a certification that the plat ~~or plan~~ contains all information required by this section.

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

(a) The name and a survey of the area which is the subject of the plat;

(b) A sufficient description of the real estate;

(c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;

(d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the common-interest community;

(e) The location and dimensions, *with reference to an established datum*, of any vertical unit boundaries and that unit's identifying number;

(f) ~~The~~ ~~Except as otherwise provided in subsection 7, the~~ location with reference to an established datum of any horizontal unit boundaries not

shown or projected on ~~{plans}~~ *plats* recorded pursuant to subsection ~~{4}~~ 3 and that unit's identifying number; and

(g) The location and dimensions of limited common elements, including porches, balconies and patios, other than parking spaces and the other limited common elements described in subsections 2 and 4 of NRS 116.2102.

3. ~~{To the extent not shown or projected on the}~~ *The plats* ~~{, plans of the units}~~ must show or project any units in which the declarant has reserved the right to create additional units or common elements (paragraph (h) of subsection 1 of NRS 116.2105), identified appropriately.

4. Unless the declaration provides otherwise, *when* the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part ~~{and}~~, *the elevations* need not be depicted on the plats. ~~{and plans of the units.}~~

5. ~~{A declarant shall also provide a plan of development for the common interest community with its initial phase of development. The declarant shall revise the plan of development with each subsequent phase. The plan of development may show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the common interest community. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT." The plan of development must also show or project:~~

~~(a) The location and dimensions of all real estate not subject to developmental rights, or subject only to the developmental right to withdraw, and the location and dimensions of all existing improvements within that real estate;~~

~~(b) A sufficient description of any real estate subject to developmental rights, labeled to identify the rights applicable to each parcel; and~~

~~(c) A sufficient description of any real estate in which the units' owners will own only an estate for years, labeled as "leasehold real estate."~~

6. Upon exercising any developmental right, the declarant shall record new or amended plats necessary to conform to the requirements of subsection 2. ~~{and provide new or amended plans of the units and a new or amended plan of development or new certifications of those plans if the plans otherwise conform to the requirements of subsections 3 and 5.}~~

7. 6. Each plat must be certified by ~~{an independent}~~ a professional land surveyor. ~~{The plans of the units must be certified by an independent professional engineer or architect. If the plan of development is not certified by an independent professional land surveyor or an independent professional engineer or architect, it must be acknowledged by the declarant.}~~

~~{ 7. Plats need not show the location and dimensions of the units' boundaries and the limited common elements if:~~

~~(a) The plat shows the location and dimensions of all buildings containing or comprising the units; and~~

~~(b) The declaration includes other information that shows or contains a narrative description of the general layout of the units in those buildings and the limited common elements, if any, allocated to those units.~~

Sec. 13. NRS 116.211 is hereby amended to read as follows:

116.211 1. To exercise any developmental right reserved under paragraph (h) of subsection 1 of NRS 116.2105, the declarant shall prepare, execute and record an amendment to the declaration (NRS 116.2117) and in a condominium or planned community comply with NRS 116.2109. The declarant is the owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection 2, reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by NRS 116.2108.

2. Developmental rights may be reserved within any real estate added to the common-interest community if the amendment adding that real estate includes all matters required by NRS 116.2105 or 116.2106, as the case may be, and, in a condominium or planned community, the plats ~~and plans~~ include all matters required by NRS 116.2109. This provision does not extend the time limit on the exercise of developmental rights imposed by the declaration pursuant to paragraph (h) of subsection 1 of NRS 116.2105.

3. Whenever a declarant exercises a developmental right to subdivide or convert a unit previously created into additional units, common elements, or both:

(a) If the declarant converts the unit entirely to common elements, the amendment to the declaration must convey it to the association or reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain (NRS 116.1107); and

(b) If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

4. If the declaration provides, pursuant to paragraph (h) of subsection 1 of NRS 116.2105, that all or a portion of the real estate is subject to a right of withdrawal:

(a) If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and

(b) If any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.

Sec. 14. NRS 116.2112 is hereby amended to read as follows:

116.2112 1. Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved and states the reallocations. The amendment must be executed by those units' owners, contain words of conveyance between them, and, on recordation, be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the association.

2. The association:

(a) In a condominium or planned community shall prepare and record plats ~~for plans~~ necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers; and

(b) In a cooperative shall prepare and record amendments to the declaration ~~including any plans,~~ necessary to show or describe the altered boundaries between adjoining units, and their dimensions and identifying numbers.

Sec. 15. NRS 116.2113 is hereby amended to read as follows:

116.2113 1. If the declaration expressly so permits, a unit may be subdivided into 2 or more units. Subject to the provisions of the declaration and other provisions of law, upon application of the unit's owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including in a condominium or planned community the plats, ~~and plans,~~ subdividing that unit.

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.

Sec. 16. NRS 116.2114 is hereby amended to read as follows:

116.2114 The existing physical boundaries of a unit or the physical boundaries of a unit reconstructed in substantial accordance with the description contained in the original declaration are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats ~~and plans~~ or, in a cooperative, to any representation in the public offering statement.

Sec. 17. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection ~~6~~ 5 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats, ~~and plans,~~ may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 18. 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 ~~for 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. 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. 19. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat ~~for plan~~ is not required.

(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 20. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, ~~and plans,~~ the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

- (a) Cancel the contract pursuant to this subsection; or
- (b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

- (a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and
- (b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

- (a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

- (b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

- (c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

- (d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 21. ~~NRS 116.4119 is hereby amended to read as follows:~~

~~116.4119 1. [Except for improvements labeled "NEED NOT BE BUILT," the] The declarant shall complete all improvements depicted on any site [plan] plat or other graphic representation, including any plats [or plans] prepared pursuant to NRS 116.2109, whether or not that site [plan] plat or other graphic representation is contained in the public offering statement or in any promotional material distributed by or for the declarant.~~

~~2. The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the common-interest community, of any portion of the common-interest community affected by the exercise of rights reserved pursuant to or created by NRS 116.211 to 116.2113, inclusive, 116.2115 or 116.2116. (Deleted by amendment.)~~

Sec. 22. NRS 116B.225 is hereby amended to read as follows:

116B.225 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats ~~and plans~~ or in the declaration;
2. Exercise any developmental right;
3. Maintain sales offices, management offices and signs advertising the condominium hotel and models, provided, however, that the declarant is not required to reserve the right to maintain such offices or signs within the hotel unit or shared components or within any unit owned by the declarant;
4. Use easements through the common elements, shared components or hotel unit for the purpose of making improvements within the condominium hotel;
5. Merge or consolidate a condominium hotel with another condominium hotel; or
6. Appoint or remove any officer of the association or any member of an executive board during any period of declarant's control.

Sec. 23. NRS 116B.295 is hereby amended to read as follows:

116B.295 1. Any provision contained in a declaration, bylaw or other governing document of a condominium hotel that violates the provisions of this chapter shall be deemed to conform with those provisions by operation

of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to a declaration, bylaws or plats ~~{and plans}~~ of any condominium hotel created before January 1, 2008:

(a) If the result accomplished by the amendment was permitted before January 1, 2008, the amendment may be made in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter and was not permitted by law before January 1, 2008, the amendment may be made under this chapter.

Sec. 24. NRS 116B.350 is hereby amended to read as follows:

116B.350 1. Plats ~~{and plans}~~ are a part of the declaration and are required for all condominium hotels. Each plat ~~{and plan}~~ must be clear and legible and contain a certification that the plat ~~{or plan}~~ contains all information required by this section.

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

(a) The name and a survey of the area which is the subject of the plat;

(b) A sufficient description of the real estate;

(c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;

(d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the condominium hotel;

(e) The location and dimensions with reference to an established datum of any vertical residential unit boundaries and that unit's identifying number;

(f) ~~The~~ ~~{Except as otherwise provided in subsection 4, the}~~ location with reference to an established datum of any horizontal unit boundaries not shown or projected on ~~{plans}~~ plats recorded pursuant to subsection ~~4~~ ~~{5}~~ and that unit's identifying number;

(g) The location and dimensions of the units, shared components and common elements; and

(h) The location and dimensions of limited common elements, if any, including porches, balconies and patios.

3. Each plat must be certified by ~~{an independent}~~ a professional land surveyor. ~~{The plans of the units must be certified by an independent professional engineer or architect.}~~

~~{4. Plats} {and plans} {need not show the location and dimensions of the units' boundaries and their limited common elements if:~~

~~(a) The plat shows the location and dimensions of all buildings containing or comprising the units; and~~

~~(b) The declaration includes other information that shows or contains a narrative description of the general layout of the units in those buildings and the limited common elements, if any, allocated to those units.~~

~~5.] [To the extent not shown or projected on the]~~

4. The plats ~~[, plans of the units]~~ must show or project any units in which the declarant has reserved the right to create additional units or common elements, or portions of the shared components or hotel unit, identified appropriately.

~~6.] 5.~~ Unless the declaration provides otherwise, *when* the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part ~~[and]~~, *the elevations* need not be depicted on the plats. ~~[and plans of the units.]~~

~~7.] 6.~~ Upon exercising any developmental right, the declarant shall prepare, execute and record new or amended plats necessary to conform to the requirements of this section.

Sec. 25. NRS 116B.365 is hereby amended to read as follows:

116B.365 The existing physical boundaries of a residential unit or a hotel unit are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats. ~~[and plans.]~~

Sec. 26. NRS 116B.760 is hereby amended to read as follows:

116B.760 1. Except in the case of a sale in which delivery of a public offering statement is required, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of this chapter, the declaration, other than any plats, ~~[and plans.]~~ the bylaws, the rules or regulations of the association and the hotel unit owner and the information statement required by NRS 116B.765;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by this chapter;

(d) A current year-to-date statement of the shared expenses charged to the units and the projected budget for the shared expenses, either within or as an exhibit to the public offering statement. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to this chapter;

(2) The projected monthly shared expenses for each type of unit, including the amount established as reserves pursuant to this chapter;

(e) A description of any other payments, fees and charges that may be charged by the hotel unit owner, including those that may be charged in order

to offset the increased burden placed on the shared components as a result of use of residential units as transient rentals; and

(f) A statement of any unsatisfied judgments or pending legal actions against the association or the hotel unit owner which affect the shared components and the status of any pending legal actions relating to the condominium hotel of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the residential unit owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the residential unit owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the residential unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the residential unit owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a residential unit owner or his authorized agent, the hotel unit owner shall furnish all of the following to the residential unit owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the residential unit owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the hotel unit owner furnishes the documents and certificate pursuant to subsection 3:

(a) The residential unit owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the residential unit owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the hotel unit owner and included in the documents and certificate.

(b) The hotel unit owner may charge the residential unit owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that the hotel unit owner may charge for preparing the certificate.

(c) The hotel unit owner may charge the residential unit owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the hotel unit owner may not charge the residential unit owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a residential unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the hotel unit owner. If the hotel unit owner fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a residential unit owner or his authorized agent, or upon the request of a purchaser to whom the hotel unit owner has provided a resale package pursuant to this section or his authorized agent, the hotel unit owner shall make the entire study of the reserves of the association or the shared components reasonably available for the residential unit owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or the hotel unit owner or some other suitable location within the county where the condominium hotel is situated or, if it is situated in more than one county, within one of those counties.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

The amendment primarily makes technical changes requested by the sponsor and restores some sections of NRS to their existing provisions.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 57.

Bill read third time.

The following amendment was proposed by Senator Horsford:

Amendment No. 506.

"SUMMARY—Makes various changes relating to veterinary medicine. (BDR 54-419)"

"AN ACT relating to veterinary medicine; authorizing the Nevada State Board of Veterinary Medical Examiners to grant a license without examination to veterinarians licensed in another state; revising the list of activities that may be performed without a veterinary license; requiring the renewal of licenses and certificates of registration biennially rather than annually; authorizing the Board to adopt regulations establishing grounds for disciplinary action against certain facilities and veterinarians; making an appropriation; and providing other matters properly relating thereto."

## Legislative Counsel's Digest:

Section 1 of this bill authorizes the Nevada State Board of Veterinary Medical Examiners to grant a license to a veterinarian licensed in another state under certain circumstances.

Section 2 of this bill limits the gratuitous acts that friends or neighbors may perform to only livestock, rather than all domesticated animals, and requires that certain vaccines be administered by a licensed veterinarian or someone under a veterinarian's direction. Section 2 also allows nonveterinarians and veterinarians from other states to consult with a veterinarian licensed in this State without requiring that person to comply with the laws governing veterinary practice in this State. (NRS 638.015)

Section 5 of this bill revises the renewal period for all licenses and certificates of registration issued by the Board so that they must be renewed biennially rather than annually. Section 5 also establishes statutory limits for the renewal fees for such licenses and certificates of registration, which currently have no limit in existing statutes. (NRS 638.127)

Section 6 of this bill allows the Board to adopt regulations prescribing grounds for disciplinary action against facilities in which veterinary medicine is practiced and against the veterinarian in charge of such facilities. (NRS 638.132)

Section 8 of this bill makes an appropriation of \$15,000 to the Audit Division of the Legislative Counsel Bureau to conduct an audit of the budget of the Board, specifically with respect to the fees collected by the Board.

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

Section 1. Chapter 638 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Notwithstanding any other provision of this chapter to the contrary, the Board shall issue a license to practice veterinary medicine to a person who:*

(a) *Has a license to practice veterinary medicine issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;*

(b) *Has actively practiced veterinary medicine pursuant to the laws of another state or territory of the United States, or the District of Columbia for a minimum of 5 years;*

(c) *Has not had his license to practice veterinary medicine revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;*

(d) *Has not been refused a license to practice veterinary medicine in this State, another state or territory of the United States, or the District of Columbia;*

(e) *Is not involved in and does not have pending a disciplinary action concerning his license to practice veterinary medicine in this State, another state or territory of the United States, or the District of Columbia;*

(f) Pays the application and renewal fees set forth in NRS 638.100 and 638.127 in the same manner as a person licensed pursuant to NRS 638.100;

(g) Submits the statement required by NRS 638.103; and

(h) Submits a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The provisions of this section do not limit a person from obtaining a license to practice veterinary medicine pursuant to any other provision of law.

Sec. 2. NRS 638.015 is hereby amended to read as follows:

638.015 1. Nothing in this chapter applies:

~~{1-}~~ (a) To the gratuitous castrating, dehorning or vaccinating of ~~{domesticated animals}~~ livestock nor to the gratuitous treatment of diseased animals by friends or neighbors of the owner thereof, except that all vaccinations for zoonotic diseases *utilizing vaccines that are conditionally licensed pursuant to 9 C.F.R. § 102.6* must be administered by a licensed veterinarian or a person under the direct supervision of a licensed veterinarian.

~~{2-}~~ (b) To debar any veterinarian in the employ of the United States Government or the State of Nevada from performing official duties necessary for the conduct of the business of the United States Government or the State of Nevada, or a political subdivision thereof, upon which he is assigned.

~~{3-}~~ (c) To any person who is a diplomate from an approved specialty board of the American Veterinary Medical Association who is called into the State for consultation by a person licensed to practice under this chapter for a period not to exceed 30 days in any 12-month period if he practices under the auspices of a licensed veterinarian.

~~{4-}~~ (d) To the giving of advice with respect to , or the performance of acts which the Board by rule has prescribed as , accepted livestock management practices.

~~{5-}~~ (e) To the owner of an animal or full-time regular employee of the owner who is caring for and treating an animal which belongs to the owner unless the ownership of the animal is transferred for the purposes of circumventing this chapter, except that all vaccinations for zoonotic diseases *utilizing vaccines that are conditionally licensed pursuant to 9 C.F.R. § 102.6* must be administered by a licensed veterinarian or a person under the direct supervision of a licensed veterinarian.

~~{6-}~~ (f) To any person or agency that performs humane services for wildlife animals without charge.

~~{7-}~~ (g) To any person, other than a veterinarian, who renders aid, assistance or relief to an animal in an emergency without charge if he does not represent himself as holding a license to practice veterinary medicine or as holding a degree in veterinary medicine or other related field.

~~§.~~ (h) To any person, other than a veterinarian, who renders emergency paramedical services to an animal without charge during the transportation of the animal to a veterinary facility.

(i) *To any person whose service is limited to consulting with a veterinarian licensed in this State and who:*

(1) *Is a veterinarian who is licensed in another state or country; or*

(2) *Has expertise, in the opinion of the veterinarian, that would benefit an animal.*

2. *For the purposes of this section:*

(a) *"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).*

(b) *"Livestock" means:*

(1) *All cattle or animals of the bovine species.*

(2) *All horses, mules, burros and asses or animals of the equine species.*

(3) *All swine or animals of the porcine species.*

(4) *All goats or animals of the caprine species.*

(5) *All sheep or animals of the ovine species.*

(6) *All poultry or domesticated fowl or birds.*

(7) *All alternative livestock.*

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 638.105 is hereby amended to read as follows:

638.105 ~~1. The Board may in its discretion license an applicant solely on the basis of oral interviews and practical demonstrations upon sufficient proof that the applicant has, within the previous 5 years, successfully passed any examination approved by:~~

~~(a) The Board; and~~

~~(b) A national testing service for veterinary medicine that has been approved by the Board.~~

~~2. The Board may, upon payment of the fee prescribed ~~under~~ pursuant to NRS 638.100 ~~or~~ 638.122, as applicable, license without examination any person who is a diplomate from an approved specialty board of the American Veterinary Medical Association ~~or~~ The veterinary practice of any person who is licensed pursuant to this subsection is limited to the specialty in which the person is certified.] or any veterinary technician who is a credentialed specialist recognized by the National Association of Veterinary Technicians in America. If an applicant for a license under this section is denied a license, any fee tendered by him may be returned to him at the discretion of the Board.~~

Sec. 5. NRS 638.127 is hereby amended to read as follows:

638.127 1. *To renew a license or certificate of registration issued pursuant to this chapter, each person must, ~~On~~ on or before ~~November 15~~*

February 1 of each even-numbered year ~~[, the Executive Director shall mail to each person licensed under the provisions of this chapter an application form for the renewal of his license.]~~ :

- (a) Submit an application for renewal to the Board;
- (b) Pay the fee for renewal and make full payment of all fines and money owed to the Board;
- (c) Submit evidence to the Board of his completion of any requirement for continuing education; and
- (d) Submit all other information required by the Board to complete the renewal.

2. ~~[Each applicant for renewal must complete the form and return it to the Executive Director, accompanied by all information required to complete the renewal, the renewal fee and full payment of all fines which he owes to the Board, on or before January 1 of each year. Each application for renewal must be signed by the applicant. The renewal fee for licensees and persons on inactive status must be in an amount determined by the Board.]~~ The Board may charge and collect fees for renewals not to exceed the following amounts:

For the biennial renewal of an active license to practice veterinary medicine.....	\$750
For the biennial renewal of an inactive license to practice veterinary medicine.....	400
For the biennial renewal of a license to practice as a veterinary technician .....	300
For the biennial renewal of a license to practice as a euthanasia technician .....	300
For the biennial renewal of a certificate of registration to practice animal physical therapy.....	200
For the biennial renewal of a certificate of registration to practice animal chiropractic.....	200
For the biennial renewal of a license issued to a facility owned by a licensed veterinarian.....	200
For the biennial renewal of a license issued to a facility owned by an unlicensed veterinarian.....	750

3. Upon receipt of the application and all required information and payment of the renewal fee and all fines *and money* owed, the Board shall issue to that person a certificate of renewal.

4. Any person who fails to renew his license on or before ~~[March]~~ April 1 of ~~[each]~~ the renewal year forfeits his license.

5. When a person has forfeited his license in the manner provided in subsection 4, the Board may reinstate the license and issue a certificate of renewal upon receipt of all information required to complete the renewal and payment of:

- (a) The renewal fee;
- (b) All fines *or money* owed ~~[;]~~ to the Board; and

(c) A delinquency penalty of \$50 for each month or fraction thereof the license was not renewed after ~~January~~ February 1.

6. If a licensee does not practice for more than 12 consecutive months, the Board may require him to take an examination to determine his competency before renewing his license.

~~{7. If a licensee does not renew his license and he is licensed to practice in another state or territory of the United States, the Board may not issue him a license to practice in the State by reciprocity. Such a licensee must reinstate his license in the manner prescribed by the Board.}~~

Sec. 6. NRS 638.132 is hereby amended to read as follows:

638.132 The Board shall adopt regulations which prescribe the requirements for the licensure of a facility in which veterinary medicine is practiced, including, without limitation, the fee for the issuance and renewal of a license ~~{}~~ and the grounds for disciplinary action to be taken against the facility or the veterinarian in charge of the facility.

Sec. 7. Notwithstanding the provisions of section 5 of this act, a license or certificate of registration issued pursuant to chapter 638 of NRS or the regulations adopted pursuant thereto which:

1. Was issued or renewed before July 1, 2009; and
  2. Is active and in good standing as of December 31, 2009,
- ↪ expires on January 31, 2010, unless suspended, revoked or otherwise rendered inactive pursuant to chapter 638 of NRS or the regulations adopted pursuant thereto.

Sec. 8. 1. There is hereby appropriated from the State General Fund to the Audit Division of the Legislative Counsel Bureau the sum of \$15,000 for an audit of the budget of the Nevada State Board of Veterinary Medical Examiners, including, without limitation, the use of the fees collected by the Board.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, 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 16, 2011, 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 16, 2011.

~~{Sec. 8.}~~ Sec. 9. This act becomes effective on July 1, 2009.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford, Carlton, Raggio and McGinness.

Senator Horsford requested that his remarks be entered in the Journal.

SENATOR HORSFORD:

Amendment 506 to Senate Bill No. 57 requires the Audit Division of the Legislative Counsel Bureau to conduct an audit of the budget of the board, specifically, in respect to the fees that are collected pursuant to the bill. It provides an appropriation accordingly.

SENATOR CARLTON:

I understand what our Majority Leader is trying to do, but I believe we have the options to accomplish this, now, without this amendment. Our Audit Division does collect all of the reports you have all seen. We have the opportunity to look into either the full audits these boards do, if they are required to, or as a smaller board does a balance-sheet audit. I am concerned that this amendment is using state dollars to audit this board. I suggested that if we wanted to do something that there was another bill out there better suited for this amendment. I have concerns about this amendment.

SENATOR HORSFORD:

I respect the opinion of the Chair of the Committee on Commerce and Labor and her work on the bill. Having spoken to the Cochair of the Committee on Finance, this has been an ongoing issue and a concern where boards and commissions are able to collect fees and not be held accountable. There is an annual balance sheet audit that is currently done. With all of the issues we are faced with, I think it is incumbent on us to increase that accountability. I look forward to working with the Chair of the Committee on Commerce and Labor as well as the Cochair of the Committee on Finance to discuss how we can address this issue for all commissions and boards so that we can hold them to a greater level of accountability related to the fees they do collect.

SENATOR RAGGIO:

I am not clear on the necessity for this audit. Did the Board of Veterinary Medical Examiners suggest this? Is there some problem that has occurred with a result of this board that suggests the need for this appropriation?

SENATOR HORSFORD:

The bill increases significantly and establishes new fees for the board, and there is concern among the industry about the level of those fees and what they are going to fund. This is not specific just to this board. It is an issue that we have among other commissions and boards, and I look forward to continue to work on the issue. Since this bill is before us and it does impose additional fees, I think it is time that the Committee on Finance review those fees and what they are going to pay for.

SENATOR MCGINNESS:

On page 4 of the amendment, line 19, it makes a reference to alternative livestock. I thought we had outlawed the raising of alternative livestock. I have not had a chance to go back to look at all of the references, but it states fallow deer and reindeer. Why is this in there?

SENATOR CARLTON:

This was the redefinition of livestock, and this was language that was brought to the committee by the board and those who were dealing with the livestock. We were trying to define alternative versus regular livestock. This is what was agreed to when dealing with inoculations. Those who were involved with this and worked on this language told me this was the correct language for them as far as alternative and livestock so that they would be correctly defined. It is a definition.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 312.

Bill read third time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 486.

"SUMMARY—Revises provisions governing ~~uninsured motorists~~ *the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles.* (BDR 43-286)"

"AN ACT relating to motor vehicles; revising provisions ~~relating to~~ governing the verification of *motor vehicle* liability insurance ~~for motor vehicles;~~ *policies by the Department of Motor Vehicles*; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires ~~that~~ *every owner of* a motor vehicle which is registered *or required to be registered* in this State ~~be covered by a policy of liability insurance;~~ *to continuously provide insurance for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.* (NRS 485.185) ~~The Department of Motor Vehicles maintains a database for verifying that owners of motor vehicles maintain liability insurance. (NRS 485.313)~~

~~The Department is required to verify monthly that each motor vehicle which is registered in the State is covered by a policy of liability insurance.~~ *Existing law also requires the Department to create a system to verify that owners of motor vehicles, other than golf carts and larger motortrucks, truck tractors and buses, maintain the required liability insurance. (NRS 485.130, 485.313) Section 4 of this bill adds provisions: (1) requiring the Department to work in cooperation with insurers to develop the system; (2) requiring that the verification be conducted through the secure transmission and receipt of information necessary to verify that owners of motor vehicles maintain the required liability insurance; (3) authorizing the Department to contract with any person to provide services relating to the system; and (4) making the system applicable to all motortrucks, truck tractors and buses.*

If the Department determines that a motor vehicle is not covered by a policy of liability insurance, ~~the~~ *existing law requires the Department* ~~must~~ *to send a form for verification of liability insurance to the owner of the vehicle. This bill requires the owner to return the verification form to the Department within 15, rather than 20, days after the date on which the verification form was mailed to the owner by the Department. If the owner does not return the verification form to the Department within 15 days, this bill requires the Department to send, by certified mail, a notice that informs the owner that unless he submits a completed verification form to the Department within 10, rather than 15, days, the Department will suspend the vehicle registration. *Section 7 of this bill amends the provisions relating to the Department's process for verifying whether the owner of the vehicle maintains liability insurance. (NRS 485.317)**

*Existing law provides that an owner of certain motor vehicles who provides proof of liability insurance provided by an insurance company that is not approved to do business in this State may register the motor vehicle and have 7 calendar days to provide proof of liability by an insurance company that is licensed and approved to do business in this State. (NRS 482.215) Section 2 of this bill removes the provision allowing an owner 7 calendar days to provide proof of liability insurance by an insurance company that is licensed and approved to do business in this State. Existing*

*law further provides that the owner of a fleet of motor vehicles and certain other motor vehicles must provide evidence of liability insurance on a form that is satisfactory to the Department. (NRS 482.215) Section 2 specifies that such liability insurance must be provided by an insurance company licensed and approved to do business in this State. Section 5 of this bill deletes provisions of existing law that prescribe the specific form and content of the records of motor vehicle liability policies which insurers must provide to the Department. (NRS 485.314)*

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

*Section 1. NRS 481.063 is hereby amended to read as follows:*

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415, 253.044 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

↪ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable,

provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415, 253.044 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

↪ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the ~~database~~ system created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that ~~database~~ system.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request

if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

*Sec. 2. NRS 482.215 is hereby amended to read as follows:*

482.215 1. All applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) His residential address.

(c) His declaration of the county where he intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5:

(1) Proof satisfactory to the Department or registered dealer that the applicant carries insurance on the vehicle  ~~[, and if the insurance is not]~~ provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185  ~~; [, the applicant must meet the requirements of NRS 485.185 within 7 calendar days.]~~ and

(2) A declaration signed by the applicant that he will maintain the insurance required by NRS 485.185 during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this paragraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance  ~~[;]~~ provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185:

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle  ~~; [and indicates, at the time of application for registration, coverage which meets the requirements of NRS 485.185.]~~ or

(3) In another form satisfactory to the Department.

↪ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

*Sec. 3. NRS 482.480 is hereby amended to read as follows:*

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all ~~for~~ the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

6. Except as otherwise provided in subsection ~~4~~ 7 of NRS 485.317, to reinstate the registration of a motor vehicle *that is* suspended pursuant to that section:

(a) A fee of \$250 for a registered owner who failed to have insurance on the date specified ~~in the form for verification that was mailed~~ by the Department; ~~pursuant to subsection 3 of NRS 485.317;~~ or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

↪ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of \$27.
8. For every permit for the operation of a golf cart, an annual fee of \$10.
9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of \$33.
10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

*Sec. 4. NRS 485.313 is hereby amended to read as follows:*

485.313 1. The Department ~~shall~~ :

- (a) Shall, in cooperation with insurers, create a system for verifying through the secure transmission and receipt of information that the owners of motor vehicles maintain the insurance required by NRS 485.185 ~~+~~; and
- (b) May enter into a contract with any person to provide services relating to the system.

2. As used in this section, "motor vehicle" does not include ~~+~~

~~(a) A~~ a golf cart as that term is defined in NRS 482.044.

~~(b) A motortruck, truck tractor, bus or other vehicle that is registered pursuant to paragraph (c) of subsection 1 of NRS 482.482 or NRS 706.801 to 706.861, inclusive.~~

*Sec. 5. NRS 485.314 is hereby amended to read as follows:*

485.314 1. ~~On or before the 15th calendar day of each month, each~~ Each insurer that has executed a contract of insurance for a motor vehicle liability policy which may be used to meet the requirements of NRS 485.185 shall ~~provide the Department with~~ maintain a record of each such policy ~~issued, amended or terminated in the previous month on the date the record is provided. The record must include:~~

~~(a) The name or identification number of each insured named in the policy of insurance;~~

~~(b) The make, year and vehicle identification number of each motor vehicle included in the policy of insurance;~~

~~(c) The number, effective date and expiration date of the policy of insurance; and~~

~~(d) Any other information required by the Department.~~

~~2. The record provided pursuant to subsection 1 must be submitted~~ in a ~~form~~ format approved by the Department and ~~may include, without limitation, magnetic tape or any other electronic medium deemed acceptable by the Department.~~

~~3. provide the Department with access to the record.~~

2. The Department shall notify the Commissioner of Insurance if an insurer:

(a) Fails to comply with subsection 1; ~~or 2;~~

(b) In complying with subsection 1, ~~or 2,~~ provides to the Department information that is false, incomplete or misleading.

*Sec. 6. NRS 485.316 is hereby amended to read as follows:*

485.316 1. Except as otherwise provided in ~~[subsections]~~ subsection 2 ~~[and 3]~~ and NRS 239.0115, information which is maintained in the ~~[database]~~ system created pursuant to NRS 485.313 is confidential.

2. The Department may only disclose information which is maintained in the ~~[database, upon request, to a]~~ system to:

*(a) A state or local governmental agency for the purpose of enforcing NRS 485.185, including investigating or litigating a violation or alleged violation;*

~~3. The Department may only disclose information retrieved from the database to:~~

~~(a);~~

*(b) An authorized insurer;*

*(c) A person:*

*(1) With whom the Department has contracted to provide services relating to the system created pursuant to NRS 485.313; and*

*(2) To whom the information is disclosed only pursuant to a nondisclosure or confidentiality agreement which relates to the information;*

*(d) A person who requests information regarding his own status;*

~~(b)~~ *(e) The parent or legal guardian of the person about whom the information is requested if the person is an unemancipated minor or legally incapacitated;*

~~(c)~~ *(f) A person who has a power of attorney from the person about whom the information is requested;*

~~(d)~~ *(g) A person who submits a notarized release from the person about whom the information is requested which is dated no more than 90 days before the date of the request; or*

~~(e)~~ *(h) A person who has suffered a loss or injury in an accident involving a motor vehicle, or his authorized insurer or a representative of his authorized insurer, who requests:*

*(1) Information for use in the accident report; and*

*(2) For each motor vehicle involved in the accident:*

*(I) The name and address of each registered owner;*

*(II) The name of the insurer; and*

*(III) The number of the policy of liability insurance.*

~~4.~~ 3. A person who knowingly violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~5.~~ 4. As used in this section, "authorized insurer" has the meaning ascribed to it in NRS 679A.030.

~~[Section 1.]~~ Sec. 7. NRS 485.317 is hereby amended to read as follows:

485.317 1. ~~[Subject to the limitations set forth in this subsection and subsection 2, the]~~ The Department shall ~~[, at least monthly, compare the current registrations of motor vehicles to the information in the database created pursuant to NRS 485.313 to]~~ verify that each motor vehicle ~~[,~~

~~(a) Which is newly] which is registered in this State [, or~~

~~(b) For which a policy of liability insurance has been issued, amended or terminated;~~

~~→] is covered by a policy of liability insurance as required by NRS 485.185. [In identifying a motor vehicle for verification pursuant to this subsection, the Department may, if the motor vehicle was manufactured during or after 1981, use only the last eight digits of the vehicle identification number. In comparing the vehicle identification number of a motor vehicle to the vehicle identification number in a policy of liability insurance, to determine if the two vehicle identification numbers match, the Department may find that the two vehicle identification numbers match if no fewer than seven of the last eight digits of the two vehicle identification numbers match.]~~

2. Except as otherwise provided in this subsection, the Department may use any information to verify ~~[, pursuant to subsection 1,]~~ whether ~~[the] a~~ motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If ~~[, pursuant to subsection 1,]~~ the Department ~~[determines] is unable to verify~~ that a motor vehicle is ~~[not]~~ covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a ~~[form for verification] request for information~~ by first-class mail to ~~[each] the~~ registered owner ~~[that it determines has not maintained the insurance required by NRS 485.185.] of the motor vehicle.~~ The owner shall ~~[complete the form with] submit~~ all the information which is requested ~~[by] to~~ the Department ~~[, including whether he carries an owner's or operator's policy of liability insurance or a certificate of self insurance, and return the completed form] within [20] 15 days after the date on which the [form] request for information was mailed by the Department. If the Department does not receive the [completed form] requested information within [20] 15 days after it mailed the [form] request to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless ~~[he submits a completed form to] the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185~~ within ~~[15] 10~~ days after the date on which the notice was sent by the Department, his registration will be suspended pursuant to subsection ~~[5. This subsection does not prohibit an authorized agent of the owner from providing to the Department:~~~~

~~(a) The information requested by the Department pursuant to this subsection.~~

~~(b) Additional information to amend or correct information already submitted to the Department pursuant to this subsection.~~

~~4. When the Department receives a completed form for verification, it shall verify the information on the form.~~

~~5.] 4.~~

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the ~~form for verification set forth in subsection 3 is:~~

~~(a) Not returned to the Department by the registered owner or his authorized agent within the period specified in that subsection;~~

~~(b) Returned to the Department by the registered owner or his authorized agent and the Department is not able to verify the information on the form; or~~

~~(c) Returned by the registered owner or his authorized agent with an admission of having no insurance or without indicating an insurer or the number of a motor vehicle liability policy or a certificate of self insurance.~~

6. ~~If the Department suspends a registration pursuant to subsection 5 because:~~

~~(a) Neither the owner nor his authorized agent returned a form for verification within the specified period or the owner or his authorized agent returned a form for verification that was not completed sufficiently, and the owner or his authorized agent, thereafter:~~

~~(1) Proves to the satisfaction of the Department that there was a justifiable cause for his failure to do so;~~

~~(2) Submits a completed form regarding his insurance on the date stated in the form mailed by the Department pursuant to subsection 3; and~~

~~(3) Presents evidence of current insurance; or~~

~~(b) The owner or his authorized agent submitted to the Department a form for verification containing information that the Department was unable to verify and, thereafter, the owner or his authorized agent presents to the Department:~~

~~(1) A corrected form or otherwise verifiable evidence setting forth that the owner possessed insurance on the date stated in the form; and~~

~~(2) Evidence of current insurance;~~

~~the Department shall rescind its suspension of the registration if it is able to verify the information on the form or the other evidence presented. The Department shall not charge a fee to reinstate a registration, the suspension of which was rescinded pursuant to this subsection. For the purposes of this subsection, "justifiable cause" may include, but is not limited to, the fact that the owner did not receive the form mailed by the Department pursuant to subsection 3.~~

7. ~~Except as otherwise provided in subsections 8 and 9, if a registered owner whose registration is suspended pursuant to subsection 5, failed to have insurance on the date specified in the form for verification,] Department cannot verify the coverage of liability insurance required by NRS 485.185.~~

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon [filing by the registered owner of evidence] verification of current insurance and payment of the fee for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

~~8.~~ 6. If a registered owner proves to the satisfaction of the Department that his vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate his registration and, if applicable, reissue his license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate his registration or reissue his license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

~~9.~~ 7. If the Department suspends the registration of a motor vehicle pursuant to subsection ~~5.~~ 4. because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that he was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstatement of the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

↪ The Department shall adopt regulations to carry out the provisions of this subsection.

~~10. For the purposes of verification of insurance by the Department pursuant to this section, a motor vehicle shall be deemed to be covered by liability insurance unless the motor vehicle is without coverage for a period of more than 7 days.~~

~~Sec. 2.~~ Sec. 8. This act becomes effective ~~on July 1, 2009.~~:

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

2. On February 1, 2010, for all other purposes.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Senator Schneider requested that his remarks be entered in the Journal.

Thank you, Mr. President. This amendment incorporates the provisions of Assembly Bill No. 312. The amendment requires the Department of Motor Vehicles (DMV) to work in cooperation with insurers to develop an insurance verification system, which will include all motor trucks, truck tractors and buses.

The amendment additionally requires that a registered owner of a motor vehicle must provide evidence at the time of registration that the owner maintains liability insurance by an insurance company licensed by the Division of Insurance of the Department of Business and Industry.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS  
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Resolutions Nos. 6, 7.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Horsford, the privilege of the floor of the Senate Chamber for this day was extended to the following members and chaperones of Trendz: Beatriz Aguirre, Tyrone Cooper, Teddy Mills, Michael Flores, Jordan Pierce, Nilah Pierce, Janea Edgel, Ajay Dews, Ismael Navarrette, Andrea Menchaca, Jessica Menchaca, Devon Cashman, Rebecca Rodriguez, Kala Oakes, Julian Cisneros, Mandella Edwards, Laura Brown, Markia Jefferson, Ashley Dansby, Alexandria, Darelle Davis, Darryn McMillin, Ashley Clay, Avery Campbell, Tabitha Agnir, William Nichols Jr., Dafne Garcia, Victoria Harris, Daniel Enriquez, Alexander Camacho, Dominique Tyler, Denise Williams, Joselyn Miller, Kiara Miller, Nicole Parks, F. A. Pridgon, Joyce Gorsuch, Nicolette Herrera, T.J. Ropelato, Breanna Lebsack, Curtis Davis, Violeta Aguirre, Brelynn Lombard, Krystal Soto, Nathaniel Phillips; chaperones: Lorraine McDowell, Irene Zepeda and Alexander Solono.

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to the following students and teachers from the Bailey Charter Elementary School: Pablo Barrera, Caleb Barrett, Tre Bussey, Natasha Despres, Kalin Drake, Marissa Dupree-Maxwell, Sonia Elias-Hagler, Brandon Ellison, Sienha Fernandez, Kayli Funk, Edward Lopez, Hannah Marsh, Jacy Marymee, Tyra Mcgee-Garrett, Shannen Moline, Joshua Ravo, Emily Reid, Salvador Ruiz Martinez, Sonia Salazar-Banquicio, Johnny Vergara, Tommy Vitone, Jordan Williamson, Savannah Barber, Madelyn Bowers, Herb Cevallos, Alexia Cooper, Katie Corrales, Kaycee Craig, Tyler Dailey, Dakota Lund, Victoria Manus, Ricky Morales, Derrick Mwenewa, Frank River, Cynthia Rodriguez, Omar Rodriguez, Zoe Ruiz, Julia Saldana Torobio, Jaelynn Thomas, Robert Vitone, Dayne Wells, Makayla Wardrobe, Brendan Deshane, Daniel Ojeda; teachers: Dan Scurlock and Erin Tibbs.

On request of Senator Nolan, the privilege of the floor of the Senate Chamber for this day was extended to Max Kurtze.

Senator Horsford moved that the Senate adjourn until Friday, April 17, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 2:53 p.m.

Approved:

BRIAN K. KROLICKI  
*President of the Senate*

Attest: CLAIRE J. CLIFT  
*Secretary of the Senate*