

THE ONE HUNDRED TENTH DAY

CARSON CITY (Friday), May 27, 2011

Assembly called to order at 10:29 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Micheal Hurlbert.

We come before you today, Lord God, to offer our praise and to seek Your intercession. We know You are truly King of kings and Lord of lords. You hold the world in the palm of your hand.

Today Lord, I ask for a special blessing on this assembly. Father, give them focus and courage. Give them strength to shoulder the heavy burdens you have placed on them. And Lord, may they find rest in You. Father, I just pray that you make them into faithful stewards of this great state of Nevada. We thank You that You hold the world in Your control.

We pray this in the name that is above all else.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the following budget for the Health Division and begs leave to report back that the following account has been closed by the Committee:

Early Intervention Services (101-3208)

Also, your Committee on Ways and Means has had under consideration the various budgets for the Office of the Military and begs leave to report back that the following accounts have been closed by the Committee:

Military (101-3650)

Carlin Armory (101-3651)

Emergency Operations Center (101-3655)

Adjutant General Construction Fund (101-3652)

National Guard Benefits (101-3653)

Patriot Relief Fund (110-3654)

DEBBIE SMITH, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 150, 348, 376, 403, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chair*

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 570, 573, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Concurrent Resolution No. 10, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

TICK SEGERBLOM, *Chair*

REMARKS FROM THE FLOOR

Assemblyman Conklin moved that the following budget closure remarks be entered in the Journal.

Motion carried.

ASSEMBLYWOMAN CARLTON:

The Assembly Committee on Ways and Means has completed its review of the various budgets for the Office of the Military for the 2011-13 biennium. The closing recommendations for these accounts result in a General Fund reduction of \$899,877 in FY 2012 and \$910,115 in FY 2013.

Military (101-3650) Military-1:

The Committee voted to approve the Governor's budget amendment to revise the fund mapping for five positions and designated maintenance and utility expenditures, and reallocating the General Fund savings to meet state match requirements based on increased federal grant revenue projections.

The Committee approved the Governor's amended recommendation to restore 10 FTE positions originally recommended for elimination in The Executive Budget, based on increased federal revenue projections and reallocation of General Fund appropriations.

The Committee voted to approve the Governor's recommendation to eliminate 24 positions during the 2011-13 biennium, resulting in a General Fund savings of \$94,607 in FY 2012 and \$96,330 in FY 2013.

The Committee approved the Governor's recommendation to add 10 FTE positions in FY 2013, and maintenance and utility expenditures for three facilities in Las Vegas – the Civil Support Team, Field Maintenance Shop, and North Las Vegas Readiness Center – all of which are projected to be online during FY 2013, resulting in General Fund expenditures totaling \$419,404 in FY 2013.

The Committee voted to approve the Governor's recommendation to transfer federal funds totaling \$2.1 million in each year of the 2011-13 biennium from the Construction Fund account (BA 3652) to this account for major repair contracts.

Carlin Armory (101-3651) Military-13:

The Committee voted not to approve the Governor's recommendation to establish the Carlin Armory account within the Office of the Military; to contingently approve the transfer of operations and maintenance funding for the Fire Science Academy from the University of Nevada, Reno to the Office of the Military pending congressional approval of the relocation of the armory site; and, authorized staff to include language in the Appropriations Act to provide for the transfer of budgeted General Fund appropriations once the federal approvals are received and subject to IFC approval.

National Guard Benefits (101-3653) Military-21:

The Committee voted to approve the Governor's recommendation, as amended, to retain the National Guard Benefits program and to restore General Fund appropriations totaling \$67,362 in FY 2012 and \$73,542 in FY 2013.

Patriot Relief Fund (101-3654) Military-23:

The Committee voted to approve the Governor's recommendation, as amended, to retain the Military Patriot Relief Fund; restore reserves and program funding during the 2011-13 biennium; and, eliminate the General Fund reversion of \$342,368 in FY 2012.

Other accounts with no major closing issues:

The following accounts were closed by the Committee as recommended by the Governor and with staff authority to make technical adjustments that may be needed based on the closing of other Office of the Military accounts:

- Adjutant General Construction Fund (101-3652) MILITARY-18
- Emergency Operations Center (101-3655) MILITARY-14

ASSEMBLYWOMAN MASTROLUCA:

The following comments describe the more significant recommendations of the Committee for the Health Division's Early Intervention Services (EIS) account:

Early Intervention Services (101-3208) DHHS Health-41:

The Committee approved funding 100 percent of the revised projected caseload growth totaling \$962,236 in FY 2012 and \$2.8 million in FY 2013, and to add back an additional \$3.4 million in General Funds for the 2011-13 biennium to fund 100 percent of the base budget caseload, including adjustments for the program efficiencies and cost savings identified to offset the remainder of the base budget caseload shortfall. In addition, the Committee approved the issuance of a letter of intent to the Health Division to form a group to analyze the methodology used to project the EIS caseload and to develop written procedures for the caseload projection, including variables and the rationale for adding referrals. In addition, the group should determine and document a reasonable methodology that will be consistently used to calculate the budget for caseload for the EIS program. The Health Division should also reevaluate the amounts that are reimbursed to the Community Providers to determine if they are appropriate (i.e., a rates study).

Finally, the Committee approved the Governor's recommendation to increase General Funds in this account by \$1.4 million each year of the 2011-13 biennium to replace the expired American Recovery and Reinvestment Act of 2009 funding to maintain the base budget caseload.

GENERAL FILE AND THIRD READING

Assembly Bill No. 552.

Bill read third time.

Remarks by Assemblymen Smith, Kite, Sherwood, Pierce, Neal, Ohrenschall, Carlton, Bobzien, Flores, Livermore, Horne, and Hambrick.

Assemblyman Conklin moved that the following remarks be entered in the Journal.

Motion carried.

ASSEMBLYWOMAN SMITH:

Assembly Bill 552 requires a law enforcement agency to take certain actions when a person is arrested for a felony or a sexual offense punishable as a misdemeanor. If the arrest is for a felony, the bill requires the agency to submit the person's name and personal information to the Central Repository for Nevada Records of Criminal History and, upon booking and before release from custody, obtain a biological specimen for analysis by the forensic laboratory overseeing genetic marker analysis for the county. If the felony arrest occurred without a warrant, the agency must not submit the specimen for analysis until a court or magistrate finds that probable cause existed for the arrest.

If the arrest is for a misdemeanor sexual offense, the bill requires the law enforcement agency to obtain a biological specimen upon booking and before release from custody, provide the specimen to the laboratory, and direct the laboratory to hold the specimen for analysis pending notification if the person was convicted or failed to appear for a scheduled hearing. After the laboratory completes the analysis of the specimen, the bill requires it to store and maintain the identification characteristics in the Combined DNA Index System (CODIS). The bill authorizes the person who is arrested, but not convicted, to make a written request to the Central Repository to expunge the genetic marker analysis.

Assembly Bill 552 increases to a category C felony the penalty for knowingly disclosing or sharing information relating to another person's genetic marker analysis and requires a forensic laboratory to comply with applicable federal laws on the release of information in CODIS. To defray the costs of the genetic marker analysis, the bill imposes an administrative assessment on fines or fees imposed on a person convicted of a crime.

The provisions of the measure relating to administrative assessments are effective July 1, 2011, and the other provisions of the bill are effective on July 1, 2012.

I hope my colleagues will seriously consider supporting this bill. This is a very serious opportunity in our state to help prevent horrific crimes using DNA. We have seen the trends across the country, and that tells us that this is a reasonable act to undertake. The majority of the states now are supporting this type of measure, and in addition to helping keep bad people off the streets, it can also help exonerate people who have been erroneously convicted and give them the freedom that they deserve. We know the stories; we know the opportunity. My colleagues who sat in committees and listened to the testimony on this legislation know what happens in both cases when you have people who are on the loose and are committing crimes. You have the opportunity through this very scientific methodology to keep those people off the streets. We also have the opportunity to help people who are sitting in prison and don't deserve to be in prison anymore.

ASSEMBLYMAN KITE:

I rise in support of this bill. I think it is very important if we can prevent one more of these serious crimes or speed up the detection of a perpetrator due to this. I think we owe it to every potential victim that this might affect. I would like to thank my colleagues from Districts 1 and 34 for bringing this forward and keeping it alive.

ASSEMBLYMAN SHERWOOD:

Thank you, Mr. Speaker, and thank you to our colleague from Assembly District 30 for making sure that this came through. I am sitting on the committee where we heard this originally. This was the most compelling testimony for me of the session. It makes sense intellectually and certainly if you are associated with anybody who has been a victim of this kind of crime. We can put these folks away sooner, because typically it is not one incident; it is multiple incidents. The sooner we can put them away, the safer everyone else is.

I appreciate the opposition to this, and I imagine 200 years ago when they were talking about fingerprints there were some people who were opposed to fingerprint science as well. I urge your support of this bill.

ASSEMBLYWOMAN PIERCE:

I rise in opposition to this. I think that this bill—I am not a lawyer—I think this bill turns on its head the idea that we are innocent until proven guilty. I think this allows law enforcement to go on a fishing expedition. I understand the situation that brings this bill forward, but I am always worried about the erosion of civil liberties. I do appreciate that many, many states are adopting this, but many, many once thought I shouldn't be able to vote, so I don't think that is necessarily a litmus test for what we should pass in this house.

ASSEMBLYWOMAN NEAL:

Mr. Speaker, I rise in opposition to A.B. 552. At first I was for the bill—and I can see the exoneration piece that is in the bill. But after further consideration of another bill that came through this body—A.B. 500, which dealt with profiling of minorities—and the impact of 552 having a further impact on profiling if the DNA collection is not separated out where we can

identify the race of the individuals who are part of that, I have to oppose the bill. I see the value, but I can't go for this bill.

ASSEMBLYMAN OHRENSCHALL:

Thank you very much, Mr. Speaker. I must respectfully rise in opposition to this measure. I applaud the work of the chairwoman of the Ways and Means Committee, and I applaud your work on this bill.

I think when we look at a bill like this, there are many things that it brings. Perhaps it might prevent a crime; perhaps it might not. But I think we have to think about what kind of society we want to live in and is someone going to be presumed innocent until they are proven guilty by a jury of their peers. I must rise in opposition. Thank you, Mr. Speaker.

ASSEMBLYWOMAN CARLTON:

Thank you, Mr. Speaker. I do rise in support. Originally when I first went through this bill and spoke with the chair of Ways and Means on this, I, too, had some very serious concerns. Then I listened in on some of the testimony, not being able to be in committee hearing when it was actually heard. It was one of those rare occasions where, having a discussion about this with my family, I tend to be the more liberal person and my husband tends to be a little more conservative. He still managed to stay married almost 30 years; he just knows that I am right. He convinced me that with the appeal process that is built into this, as long as it's not onerous on the person to be able to pull their DNA back, that this is not an onerous, terrible thing. It could a lot worse. I think this is very reasonable. It's a compromise position on this bill.

As a server in Las Vegas for close to 20 years, I had to be fingerprinted before I could serve bacon and eggs, club sandwiches, and coffee. I thought that was wrong and have fought against that, and we have changed those rules. I don't believe someone should have to be fingerprinted to get a job. But in the case of an encounter with law enforcement, when they feel it's reasonable, there is a judicial system that will work through this. I believe justice will be served, and the folks that are asked to do this will have an opportunity to defend themselves. I do rise in support of this bill.

ASSEMBLYMAN BOBZIEN:

I appreciate greatly the positions of conscience that the opponents have taken. But my conscience—when I think about this bill and as I have considered it and the work that has gone into it to really come up with a workable system—brings me back to the memory of why this bill is being considered and where it comes from. I represent Assembly District 24 in northwest Reno, and I will tell you that the situation that spawned this bill will not soon be forgotten by my neighbors and my constituents. If we can do something to prevent future tragedies from occurring, I am very willing to support this bill. Thank you.

ASSEMBLYWOMAN FLORES:

Initially, I didn't plan to make any remarks, but I do see that four of my colleagues and perhaps others are potentially considering not supporting this bill. As someone who has worked on wrongful convictions for a very long time now, 36 percent of the close to 300 people who have been exonerated were exonerated because the true perpetrators were found. The perpetrators were found because they later committed more crimes, and they were run through the database. Had those people been run through the database before, it's possible that they would not have gone on to commit further crimes, and the person who was wrongfully put in prison would not be there. I had some serious reservations about this bill myself, just like my colleague from District 14, but because this is for felony arrests—because there are other provisions in here that prevent people from just randomly being arrested and having their DNA taken—I do believe that is enough safeguard to protect our civil liberties and ensure that DNA is just not being taken from anyone at any random time. So I do urge this body to support this bill. A lot of good is to be gained from supporting this bill, and I hope that people will reconsider if you're thinking of not supporting the bill. Thank you.

ASSEMBLYMAN LIVERMORE:

I ask this body to support this legislation. I remember my wife and I were very watchful as the community went through the process of this horrible crime. This act that we are hopefully

about to enact helps in the future where no other family needs to go through this tragedy, so I ask for support of this bill, and please let's pass this.

ASSEMBLYMAN HORNE:

Last session, I was opposed to this measure. As many of you know, part of my practice of law is criminal defense. Like my colleague from District 8, I don't take lightly looking after the rights of persons who have been arrested and charged with crimes. That said, I sit in a unique position, representing these very persons who have been charged with a crime and representing the people from District 34 and making our community safe. I decided during the interim that I would help in any way I could to make this a better bill, and I think I did that with those of us in Judiciary with the amendment we put on yesterday. This bill is not going to be a profiling bill because the collection is going to occur after such time as a person has been arrested and charged with a crime. There's a threshold that has to be met first. A person has to be charged with a crime, not with speeding and pulled over for a broken tail light. They have been charged with a crime initially. Secondly, if this person's charges have been dismissed or they are acquitted, they have a procedure in place to where they can get this data expunged from CODIS, so it's not sitting there to be used at some other time. There is even provision in there if it's mistakenly put in CODIS, there has to be good faith shown that the collection was done in accordance to law.

I think this is a good bill because it provides the opportunity not only to find offenders who have been out committing crimes that have yet to be caught, but also to exonerate those individuals—and there are many in prisons in Nevada and across the nation—who are in prison for crimes they did not commit. Some will serve out their times for the crimes they were convicted of, but some, as my colleague from District 28 pointed out, have been exonerated because of DNA that has been collected from somebody who had been arrested or convicted of a crime.

I rise in support of this measure because it's good for Nevada. It's not an abuse against those who have been arrested for crimes, and it has the adequate protections of those persons as well. Thank you, Mr. Speaker.

ASSEMBLYMAN HAMBRICK:

The prior Speaker of this body last session started the session with advice to all the members that we should have taken to heart and hopefully we did: Do no harm. As all of us go through our deliberative thought process, particularly on this bill, many things come into our thought process and how we decide things and compartmentalize, but a large segment must be what our constituents want. What do they need? I truly believe that you could pick up the phone and start calling and doing the robocalls that we all love and ask your constituents what do they believe. I think they would want us to support this bill. Thank you, Mr. Speaker.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Speaker, for recognizing me a second time. I wanted to address a few of the concerns and remarks that have been made by my colleagues. We heard in testimony that in one case, had this procedure—this law—been available, 13 lives could have been saved that were taken by one horrible criminal—13 lives in one case alone. We also know, in response to concerns about any kind of profiling, that the majority of people who have been exonerated are minority. I believe that this legislation has the opportunity to do the opposite, as my colleague the chairman of Judiciary pointed out, on profiling. This very particular science has the ability to free someone as well as convict someone, and right is right and wrong is wrong. I understand that it takes awhile to get to the point of sometimes accepting new technology, and I appreciate the comments from my colleague from District 21 about the fact that this very same conversation probably did take place about fingerprints. Personally, we also heard testimony about fingerprints being out there stapled to a file in a police record, whereas this DNA information is in a very confidential storage system; I feel much more comfortable about the technology and very confidential nature of DNA evidence. So if you listen to the testimony and if you look at the statistics, I think you will be compelled to feel more comfortable about this situation. I am one who, over the last four years as I studied this and learned more about it and as I become more involved through one of our legislative conferences where I first became

interested in this issue, became absolutely comfortable with where this legislation takes us. I thank you, again, for allowing me to make remarks a second time, Mr. Speaker.

Roll call on Assembly Bill No. 552:

YEAS—31.

NAYS—Aizley, Atkinson, Brooks, Carrillo, Daly, Goedhart, Hogan, Neal, Ohrenschall, Pierce, Segerblom—11.

Assembly Bill No. 552 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 26, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 459, 478; Senate Bill No. 477.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 59, Amendment No. 634; Assembly Bill No. 77, Amendments Nos. 617, 772; Assembly Bill No. 282, Amendments Nos. 576, 780; Assembly Bill No. 309, Amendment No. 597, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 637 to Senate Bill No. 245.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 636 to Senate Bill No. 264.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bills Nos. 570, 573; Senate Bills Nos. 150, 348, 376, 403, just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Conklin moved that Assembly Concurrent Resolution 10, just reported out of committee, be placed on the Resolution File.

Motion carried.

Assembly Concurrent Resolution No. 10.

Assemblywoman Smith moved the adoption of the resolution.

Remarks by Assemblywoman Smith.

Resolution adopted and ordered transmitted to the Senate.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 477.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 570.

Bill read second time and ordered to third reading.

Assembly Bill No. 573.

Bill read second time and ordered to third reading.

Senate Bill No. 150.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 734.

AN ACT relating to liens; revising certain provisions governing liens of owners of facilities for storage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally provides that if an occupant of a storage space at a self-storage facility defaults on the payment of rent or other charges that are due to the owner of the facility pursuant to a rental agreement, the owner has a lien on the occupant's personal property contained in the storage space and is entitled to certain remedies until the lien is satisfied. (NRS 108.4753, 108.4763) In addition to being able to deny the occupant access to the storage space and remove the occupant's personal property from the storage space, an owner may also sell the occupant's personal property to satisfy the lien. (NRS 108.4763) **Section 16** of this bill further authorizes an owner to dispose of certain personal property. **Sections 13, 16, ~~17~~ and 19** of this bill revise various provisions relating to an owner's lien on an occupant's personal property as well as the sale to satisfy such a lien.

Existing law also authorizes an occupant to prevent the sale of his or her personal property to satisfy the lien by executing a declaration ~~of~~ in opposition to the sale and returning the declaration to the owner. Upon receipt of the declaration ~~of~~ in opposition to the sale, the owner may commence an action in court to enforce the lien. (NRS 108.4765, 108.478) ~~[Section 22 of this bill repeals these provisions.]~~ **Section 16.5 of this bill revises the information that a declaration in opposition to the sale must contain. Section 18.5 of this bill removes the provision which authorizes an owner to commence an action in court to enforce the lien upon receipt of a declaration in opposition to the sale. Instead, the occupant is required to commence an action not later than 21 days after the owner receives the declaration in opposition to the sale or the owner may sell the property. If an action is commenced, the owner is prohibited from selling the property unless the court enters judgment in favor of the owner.**

Sections 15 and 16 provide that certain notices relating to an occupant's right to use a storage space and a sale to satisfy an owner's

lien on an occupant's personal property must be sent by verified mail and, if available, electronic mail.

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

Section 1. Chapter 108 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *“Electronic mail” means an electronic message, executable program or computer file which contains an image of a message that is transmitted between two or more computers or electronic terminals, or within or between computer networks and from which ~~an electronic~~ a confirmation of receipt is received.*

Sec. 3. *“Protected property” means personal property, the sale of which or prohibition against the sale of which is regulated by state or federal law. The term includes, without limitation:*

1. Documents, film or electronic data that contain personal information, such as social security numbers, credit or debit card information, bank account information, passport information and medical or legal records relating to clients, customers, patients or others in connection with an occupant's business.

2. Pharmaceuticals other than those dispensed by a licensed pharmacy for use by an occupant.

3. Alcoholic beverages.

4. Firearms.

Sec. 4. *“Storage space” means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.*

Sec. 5. *“Verified mail” means any method of mailing offered by the United States Postal Service that provides evidence of mailing.*

Sec. 6. *If a rental agreement contains a limit on the value of property stored in the storage space of an occupant, the limit is presumed to be the maximum value of the personal property stored in the storage space.*

Sec. 7. NRS 108.473 is hereby amended to read as follows:

108.473 As used in NRS 108.473 to 108.4783, inclusive, *and sections 2 to 6, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 108.4733 to 108.4745, inclusive, *and sections 2 to 5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 108.4733 is hereby amended to read as follows:

108.4733 “Facility” means real property divided into individual *storage* spaces . ~~[for storing personal property which are rented or leased to individual occupants and to which the individual occupant has access.]~~ The term does not include a garage or storage area in a private residence.

Sec. 9. NRS 108.4735 is hereby amended to read as follows:

108.4735 “Occupant” includes a person or a person’s sublessee, successor or assignee who is entitled to the exclusive use of ~~[a space for]~~ **an individual storage space** at a facility pursuant to a rental agreement.

Sec. 10. NRS 108.4743 is hereby amended to read as follows:

108.4743 “Personal property” means any property not affixed to land and includes ~~[goods,]~~ , **without limitation**, merchandise, furniture , ~~[and]~~ household items ~~[,]~~ , **motor vehicles, boats and personal watercraft.**

Sec. 11. NRS 108.4745 is hereby amended to read as follows:

108.4745 “Rental agreement” means any written agreement or lease establishing or modifying the terms, conditions or rules concerning the use and occupancy of an individual ~~[space in]~~ **storage space at** a facility.

Sec. 12. NRS 108.475 is hereby amended to read as follows:

108.475 1. A person shall not use a **storage space at a** facility for a residence. The owner of such a facility shall evict any person who uses **a storage space at** the facility as a residence in the manner provided for in NRS 40.760.

2. A facility shall not be deemed to be a warehouse or a public utility.

3. If an owner of a facility issues a warehouse receipt, bill of lading or other document of title for the personal property stored in **a storage space at** the facility, the owner and occupant are subject to the provisions of NRS 104.7101 to 104.7603, inclusive, and the provisions of NRS 108.473 to 108.4783, inclusive, **and sections 2 to 6, inclusive, of this act** do not apply.

Sec. 13. NRS 108.4753 is hereby amended to read as follows:

108.4753 1. The owner of a facility and the owner’s heirs, assignees or successors have a **possessory lien , from the date the rent for a storage space at the facility is due and unpaid**, on all personal property , **including protected property**, located ~~[at the facility]~~ **in the storage space** for the rent, labor or other charges incurred by the owner pursuant to a rental agreement and for those expenses ~~[necessarily]~~ **reasonably** incurred by the owner to preserve, sell or otherwise dispose of the personal property.

2. Any lien created by a document of title for a motor vehicle or boat has priority over a lien attaching to that motor vehicle or boat pursuant to NRS 108.473 to 108.4783, inclusive.

Sec. 14. NRS 108.4755 is hereby amended to read as follows:

108.4755 1. Each rental agreement must be in writing and must contain:

(a) A provision printed in a size equal to at least 10-point type that states, “IT IS UNLAWFUL TO USE ~~[THIS]~~ **A STORAGE SPACE IN THIS FACILITY AS A RESIDENCE.**”

(b) A statement that the occupant’s personal property will be subject to a claim for a lien and may be sold ~~[to satisfy that lien]~~ **or disposed of** if the rent or other charges described in the rental agreement remain unpaid for 14 consecutive days.

(c) **A provision requiring the occupant to:**

(1) *Disclose to the owner any items of protected property in the storage space.*

(2) *If the occupant is subject to mandatory licensing, registration, permitting or other professional or occupational regulation by a governmental agency, board or commission and the protected property to be stored is related to the practice of that profession or occupation by the occupant, provide written notice to that agency, board or commission stating that the occupant is storing protected property at the facility, identifying the general type of protected property being stored at the facility and providing complete contact information for the facility. The occupant shall give the owner a copy of any written notice provided to such an agency, board or commission.*

(3) *Provide complete contact information for a secondary contact who may be contacted by the owner if the owner is unable to contact the occupant.*

2. If any provision of the rental agreement provides that an owner, lessor, operator, manager or employee of the facility, or any combination thereof, is not liable, jointly or severally, for any loss or theft of personal property stored in *a storage space at* the facility, the provision is unenforceable unless:

(a) The rental agreement contains a statement advising the occupant to purchase insurance for any personal property stored in *a storage space at* the facility and informing the occupant that such insurance is available through most insurers;

(b) The provision and the statement are:

(1) Printed in all capital letters or, if the rental agreement is printed in all capital letters, printed in all capital letters and boldface type, italic type or underlined type; and

(2) Printed in a size equal to at least 10-point type or, if the rental agreement is printed in 10-point type or larger, printed in type that is at least 2 points larger than the size of type used for other provisions of the rental agreement; and

(c) The provision is otherwise enforceable pursuant to the laws of this state.

3. NRS 108.473 to 108.4783, inclusive, *and sections 2 to 6, inclusive, of this act* do not apply and the lien for charges for storage does not attach unless the rental agreement contains a space for the occupant to provide the name and address of an alternative person to whom the notices under those sections may be sent. The occupant's failure to provide an alternative address does not affect the owner's remedies under those sections.

4. The parties may agree in the rental agreement to additional rights, obligations or remedies other than those provided by NRS 108.473 to 108.4783, inclusive ~~and~~, *and sections 2 to 6, inclusive, of this act*. The rights provided in those sections are in addition to any other rights of a creditor against a debtor.

Sec. 15. NRS 108.476 is hereby amended to read as follows:

108.476 1. If any charges for rent or other items owed by the occupant remain unpaid for 14 days or more, the owner may terminate the occupant's right to use the ~~individual~~ **storage** space ~~for storage~~ at the facility, **for which charges are owed**, not less than 14 days after sending a notice by ~~certified~~ **verified mail ~~for~~ and if available, electronic mail** to the occupant at his or her last **known** address and to the alternative address provided by the occupant in the rental agreement. The notice must contain:

(a) An itemized statement of the amount owed by the occupant at the time of the notice and the date when the amount became due;

(b) The name, address and telephone number of the owner or the owner's agent;

(c) A statement that the occupant's right to use the ~~space for~~ **storage space** will terminate on a specific date unless the occupant pays the amount owed to the owner; and

(d) A statement that upon the termination of the occupant's right to occupy the **storage** space and after the date specified in the notice, an owner's lien pursuant to NRS 108.4753, will be imposed.

2. For the purposes of this section, "last known address" means the **postal ~~for~~ and electronic mail** address, **if any**, provided by the occupant in the most recent rental agreement between the owner and occupant, or the **postal ~~for~~ and electronic mail** address, **if any**, provided by the occupant in a written notice sent to the owner with a change of the occupant's address after the execution of the rental agreement.

Sec. 16. NRS 108.4763 is hereby amended to read as follows:

108.4763 1. After the notice of the lien is mailed by the owner, if the occupant fails to pay the total amount due by the date specified in the notice, the owner may:

(a) Deny the occupant access to the **storage** space. ~~for storage; and~~

(b) Enter the **storage** space and remove the personal property within it to a safe place.

(c) **Dispose of, but may not sell, any protected property contained in the storage space in accordance with the provisions of subsection ~~4~~ 5 if the owner has actual knowledge of such protected property. If the owner disposes of the protected property in accordance with the provisions of subsection ~~4~~ 5, the owner is not liable to the occupant or any other person who claims an interest in the protected property.**

(d) **If the personal property upon which the lien is claimed is a motor vehicle, boat or personal watercraft, and rent and other charges related to such property remain unpaid or unsatisfied for 60 days, have the property towed by any tow car operator subject to the jurisdiction of the Nevada Transportation Authority. If a motor vehicle, boat or personal watercraft is towed pursuant to this paragraph, the owner is not liable for any damages to such property once the tow car operator takes possession of the motor vehicle, boat or personal watercraft.**

2. The owner shall send to the occupant a notice of a sale to satisfy the lien by ~~[certified]~~ **verified** mail ~~[to the occupant at his or her]~~ **at the** last known address **of the occupant** and ~~[to]~~ **at** the alternative address provided by the occupant in the rental agreement at least 14 days before the sale. ***The owner shall also send such notice to the occupant by electronic mail at the last known electronic mail address of the occupant, if any.*** The notice must contain:

(a) A statement that the occupant may no longer use the ~~[space for]~~ storage **space** and no longer has access to the occupant's personal property stored therein ~~[]~~;

(b) A statement that the personal property of the occupant is subject to a lien and the amount of the lien ~~[]~~;

(c) A statement that the personal property will be sold **or disposed of** to satisfy the lien on a date specified in the notice, unless the total amount of the lien is paid ~~[]~~ **or the occupant executes and returns by ~~[certified]~~ **verified** mail, the declaration in opposition to the sale; and**

(d) A statement of the provisions of subsection 3.

3. Proceeds of the sale over the amount of the lien and the costs of the sale must be retained by the owner and may be reclaimed by the occupant or the occupant's authorized representative at any time up to 1 year from the date of the sale.

4. The notice of the sale must also contain a blank copy of a declaration ~~[]~~ **in** opposition to the sale to be executed by the occupant if the occupant wishes to do so.

5. The owner may dispose of protected property contained in the storage space by taking the following actions, in the following order of priority, until the protected property is disposed of:

(a) Contacting the occupant and returning the protected property to the occupant.

(b) Contacting the secondary contact listed by the occupant in the rental agreement and returning the protected property to the secondary contact.

(c) Contacting any appropriate state or federal authorities, including, without limitation, any appropriate governmental agency, board or commission listed by the occupant in the rental agreement pursuant to NRS 108.4755, ascertaining whether such authorities will accept the protected property and, if such authorities will accept the protected property, ensuring that the protected property is delivered to such authorities.

(d) Destroying the protected property in an appropriate manner which is authorized by law and which ensures that any confidential information contained in the protected property is completely obliterated and may not be examined or accessed by the public.

Sec. 16.5. NRS 108.4765 is hereby amended to read as follows:

108.4765 The occupant may prevent a sale of the personal property to satisfy the lien if the occupant executes a declaration ~~[]~~ **in** opposition to the

sale under penalty of perjury and returns the declaration to the owner by ~~certified~~ **verified** mail. The declaration must contain the following:

1. The name, address and signature of the occupant;
2. The location of the personal property which is to be sold to satisfy a lien;
3. The date the declaration was executed by the occupant; and
4. A statement that:
 - (a) The occupant has received the notice of the sale to satisfy the lien;
 - (b) The occupant opposes the sale of the property; and
 - (c) The occupant understands that ~~the owner may commence an~~ **any** action ~~for the amount~~ **concerning the validity** of the lien ~~and the costs of the action.~~ **must be commenced not later than 21 days after the date on which the owner receives the declaration in opposition to the sale as required pursuant to NRS 108.477.**

Sec. 17. NRS 108.477 is hereby amended to read as follows:

108.477 1. If the declaration in opposition to the lien sale executed by the occupant is not received by the date of the sale specified in the notice mailed to the occupant, the owner may sell the property.

2. The owner shall advertise the sale once a week for 2 consecutive weeks immediately preceding the date of the sale ~~on a publicly accessible Internet website and~~ in a newspaper of general circulation in the judicial district where the sale is to be held. The advertisement must contain:

- (a) A general description of the personal property to be sold;
- (b) The name of the occupant;
- (c) The number of the individual **storage** space ~~for storage~~ at the facility where the personal property was stored; and
- (d) The name and address of the facility.

3. ~~2.~~ If there is no newspaper of general circulation in the judicial district where the sale is to be held, the advertisement must be posted 10 days before the sale in at least six conspicuous places near the place of the sale.

4. ~~3.~~ The sale must be conducted in a commercially reasonable manner. ~~If five or more bidders who are unrelated to the owner are in attendance at a sale held to satisfy the lien, the sale and all proceeds from the sale are deemed to be commercially reasonable.~~

~~4.~~ 5. After deducting the amount of the lien and the costs of the sale, the owner shall retain any excess proceeds from the sale on the behalf of the occupant.

~~5.~~ 6. The occupant or any person authorized by the occupant or by an order of the court may claim the excess proceeds or the portion of the proceeds necessary to satisfy the person's claim at any time within 1 year after the date of the sale. After 1 year, the owner shall pay any proceeds remaining from the sale to the treasurer of the county where the sale was held for deposit in the general fund of the county.

Sec. 18. NRS 108.4773 is hereby amended to read as follows:

108.4773 1. Any person who has a security interest in the personal property perfected pursuant to NRS 104.9101 to 104.9709, inclusive, may claim the personal property which is subject to the security interest and to the lien for storage charges by paying the amount due, as specified in the preliminary notice of the lien, for the storage of the property ~~if~~ if no declaration in opposition to the sale to satisfy the lien has been executed and returned by the occupant to the owner.

2. Upon payment of the total amount due pursuant to this section, the owner shall deliver the personal property subject to the security interest to the person **holding such interest and** paying the amount of the owner's lien. The owner is not liable to any person for any action taken pursuant to this section if the owner complied with the provisions of NRS 108.473 to 108.4783, inclusive ~~], and sections 2 to 6, inclusive, of this act.~~

Sec. 18.5. NRS 108.478 is hereby amended to read as follows:

108.478 ~~1. If [the occupant signs, and returns to] the owner [the] receives a declaration in opposition to the sale [the owner may commence an action in any court of competent jurisdiction to enforce the lien.] before the date set forth in the notice of the sale to satisfy the lien:~~

1. Except as otherwise provided in subsection 2, the owner must not sell the property until at least 30 days after the date on which the owner receives the declaration in opposition to the sale.

2. [If, after the action to enforce the lien, the owner obtains a judgment against the occupant for the amount of the lien, the owner may enforce the judgment by a sale of the property conducted in a commercially reasonable manner more than 10 days after the notice of the entry of judgment has been filed with the court, unless within that time the occupant pays the amount of the judgment.] The occupant must file a complaint in a court of competent jurisdiction not later than 21 days after the date on which the owner receives the declaration in opposition to the sale. If such an action is commenced, the owner must not sell the property unless the court enters judgment in favor of the owner.

3. If the occupant does not commence an action within 21 days after the date on which the owner receives the declaration in opposition to the sale, or if the court enters judgment in favor of the owner, the owner may advertise the property for sale and sell the property as provided in NRS 108.477.

4. The occupant may stay the enforcement of [the] a judgment pending an appeal by posting with the court which entered the judgment [a] a bond in an amount equal to 1.5 times the amount of the judgment. If the occupant posts such a bond, the court may order the owner to return the personal property to the occupant.

Sec. 19. NRS 108.4783 is hereby amended to read as follows:

108.4783 Any person who purchases the personal property in good faith at a sale to satisfy the lien or a sale to enforce a judgment on a lien :

1. *Does not acquire ownership of any protected property found in the storage space. The person who purchased the protected property in good faith at a sale to satisfy the lien shall, as soon as reasonably practicable, return the protected property to the occupant or, if the occupant cannot be found after reasonable diligence, to the owner, who shall dispose of the protected property in accordance with the provisions of subsection ~~##~~ 5 of NRS 108.4763.*

2. *Except as otherwise provided in subsection 1, takes the property free and clear of ~~any interests of the occupant,~~ the rights of any party, even though the owner who conducted the sale may have failed to comply with the provisions of NRS 108.473 to 108.4783, inclusive ~~[-]~~, and sections 2 to 6, inclusive, of this act.*

Sec. 20. NRS 40.760 is hereby amended to read as follows:

40.760 1. When a person is using a *storage space at a facility* ~~for storage~~ as a residence, the owner or the owner's agent shall serve or have served a notice in writing which directs the person to cease using the ~~facility~~ *storage space* as a residence no later than 24 hours after receiving the notice. The notice must advise the person that:

(a) NRS 108.475 requires the owner to ask the court to have the person evicted if the person has not ceased using the ~~facility~~ *storage space* as a residence within 24 hours; and

(b) The person may continue to use the ~~facility~~ *storage space* to store the person's personal property in accordance with the rental agreement.

2. If the person does not cease using the ~~facility~~ *storage space* as a residence within 24 hours after receiving the notice to do so, the owner of the facility or the owner's agent shall apply by affidavit for summary eviction to the justice of the peace of the township wherein the facility is located. The affidavit must contain:

(a) The date the rental agreement became effective.

(b) A statement that the person is using the ~~facility~~ *storage space* as a residence.

(c) The date and time the person was served with written notice to cease using the ~~facility~~ *storage space* as a residence.

(d) A statement that the person has not ceased using the facility as a residence within 24 hours after receiving the notice.

3. Upon receipt of such an affidavit the justice of the peace shall issue an order directing the sheriff or constable of the county to remove the person within 24 hours after receipt of the order. The sheriff or constable shall not remove the person's personal property from the facility.

4. For the purposes of this section ~~[-, "facility for storage"]~~:

(a) "*Facility*" means real property divided into individual *storage spaces*. ~~[which are rented or leased for storing personal property.]~~ The term does not include a garage or storage area in a private residence.

(b) *“Storage space” means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.*

Sec. 21. NRS 597.890 is hereby amended to read as follows:

597.890 1. The owner of a facility for the storage of personal property or a person acting on his or her behalf shall not advertise that the facility is “climate controlled” unless the advertisement specifies the range of the minimum and maximum temperature and humidity within which the facility is maintained.

2. If an owner or a person acting on his or her behalf fails to indicate the range of temperature and humidity of a facility in any advertisement that refers to it as being “climate controlled” or fails to maintain the temperature and humidity of the facility within the advertised range, the owner is guilty of a misdemeanor and is liable to the occupant for any damages that are caused to the occupant’s personal property as a result of extremes in temperature or humidity, notwithstanding any contrary provision in the rental agreement.

3. As used in this section, the terms “facility,” “occupant,” “owner,” “personal property” and “rental agreement” have the meanings ascribed to them respectively in NRS 108.4733 to 108.4745, inclusive ~~[]~~, *and sections 2 to 5, inclusive, of this act.*

Sec. 22. ~~[NRS 108.4765 and 108.478 are hereby repealed.] (Deleted by amendment.)~~

f

TEXT OF REPEALED SECTIONS

~~108.4765—Occupant’s declaration of opposition to sale.~~

~~The occupant may prevent a sale of the personal property to satisfy the lien if the occupant executes a declaration of opposition to the sale under penalty of perjury and returns the declaration to the owner by certified mail. The declaration must contain the following:~~

- ~~1.—The name, address and signature of the occupant;~~
- ~~2.—The location of the personal property which is to be sold to satisfy a lien;~~
- ~~3.—The date the declaration was executed by the occupant; and~~
- ~~4.—A statement that:

 - ~~(a) The occupant has received the notice of the sale to satisfy the lien;~~
 - ~~(b) The occupant opposes the sale of the property; and~~
 - ~~(c) The occupant understands that the owner may commence an action for the amount of the lien and the costs of the action.~~~~

~~108.478—Action to enforce lien; enforcement of judgment; stay of enforcement pending appeal.~~

~~1.—If the occupant signs, and returns to the owner, the declaration in opposition to the sale, the owner may commence an action in any court of competent jurisdiction to enforce the lien.~~

~~2.—If, after the action to enforce the lien, the owner obtains a judgment against the occupant for the amount of the lien, the owner may enforce the~~

judgment by a sale of the property conducted in a commercially reasonable manner more than 10 days after the notice of the entry of judgment has been filed with the court, unless within that time the occupant pays the amount of the judgment.

~~3. The occupant may stay the enforcement of the judgment pending an appeal by posting with the court which entered the judgment, a bond in an amount equal to 1.5 times the amount of the judgment. If the occupant posts such a bond, the court may order the owner to return the personal property to the occupant.]~~

Assemblyman Ohrenschaal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 348.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 663.

SUMMARY — ~~[Eliminates limits on the amounts of certain property that is exempt from execution.]~~ **Makes various changes concerning the execution on property of a judgment debtor or defendant.** (BDR 2-779)

AN ACT relating to property; **providing that a certain amount of money held in a personal bank account that is likely to be exempt from execution is not subject to a writ of execution or garnishment; providing a procedure to execute on property held in a safe-deposit box; eliminating limits on the amounts of certain property that is exempt from execution; exempting certain property from execution; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) Section 3 of this bill provides that a certain amount of money held in the personal bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor. Section 3 further provides immunity from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. Section 4 of this bill provides that notwithstanding the provisions of section 3, if a judgment debtor has personal bank accounts in more than one financial institution, the writ may attach to all money

in those accounts. The judgment debtor then may claim any exemption that may apply.

Section 5 of this bill provides that a separate writ must be issued to levy on property in a safe-deposit box and provides a procedure for executing on such a writ.

Existing law exempts from execution all money, benefits, privileges or immunities arising out of a policy of life insurance if the annual premium paid for the policy does not exceed \$15,000 and exempts a portion of those insurance proceeds if the premium does exceed \$15,000. (NRS 21.090) **Section ~~4~~ 7 of this bill eliminates the \$15,000 premium limit, allowing for a complete exemption from the execution of all money, benefits, privileges or immunities arising from a policy of life insurance. Section 7 also provides additional exemptions from execution which are provided by Nevada law.**

Section 8 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. Sections 6 and 10 of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor or defendant so that the procedures listed in the notice reflect the changes made in section 8. Sections 6 and 10 further revise the notice to provide additional information concerning the claiming of exemptions.

Sections 2 and 9 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in section 3.

Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment.

Section 13 of this bill provides that the fee for receiving, removing and taking care of property on execution, attachment or court order collected by a constable is not payable in advance.

Section 14 of this bill provides that certain unemployment benefits are exempt from execution regardless of whether they are mingled with other money.

Existing law exempts from execution any annuity benefits presently due and payable to an annuitant on a scheduled or periodic basis up to a total of

\$350 per month but allows a court to order certain just and proper payments from annuity benefits if those benefits exceed \$350 per month. (NRS 687B.290) **Section ~~14~~ 15** of this bill eliminates the \$350 monthly benefit exemption limit, allowing for a complete exemption from the execution of annuity benefits.

Section 16 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in section 8.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.

Sec. 3. 1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, \$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:

(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;

(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, \$1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.

3. If a judgment debtor has more than one personal bank account with the financial institution to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.

4. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.

5. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the financial institution which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation,

when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Sec. 4. 1. Notwithstanding the provisions of section 3 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.

2. A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.

3. A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.

Sec. 5. 1. If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.

2. During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.

3. The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

Sec. 6. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to

NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

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

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

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.
12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money, not to exceed \$500,000 in present value, held in:
 - (a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;
 - (b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;
 - (c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;
 - (d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and
 - (e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.
14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.
15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.
16. Regardless of whether a trust contains a spendthrift provision:
 - (a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;
 - (b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;
 - (c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;
 - (d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;
 - (e) Certain powers held by a trust protector or certain other persons;
 - (f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

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

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

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

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

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

23. Payments received as restitution for a criminal act.

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

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

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

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

indigent or elderly persons). *If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.*

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~the~~ *an executed claim of exemption.* A copy of the ~~affidavit~~ *claim of exemption* must be served upon the sheriff, *the garnishee* and the judgment creditor within ~~8~~ *20 calendar* days after the notice of execution *or garnishment* is ~~mailed~~ *served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.* The property must be ~~returned to you~~ *released by the garnishee or the sheriff* within ~~5~~ *9 judicial* days after you ~~file~~ *serve* the ~~affidavit~~ *claim of exemption upon the sheriff, garnishee and judgment creditor,* unless ~~you or the judgment creditor files a motion~~ *the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice* for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~motion~~ *objection to the claim of exemption and notice* for the hearing to determine the issue of exemption must be filed within ~~10~~ *8 judicial* days after the ~~affidavit~~ *claim of exemption* is ~~filed~~ *served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.* The hearing to determine whether the property or money is exempt must be held within ~~10~~ *7 judicial* days after the ~~motion~~ *objection to the claim of exemption and notice* for the hearing is filed. *You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.*

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

~~Section 1.~~ *Sec. 7.* NRS 21.090 is hereby amended to read as follows:

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

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of

the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in NRS 163.4145 if the interest has not been distributed;

(2) A remainder interest in the trust as defined in NRS 163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(4) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been distributed or transferred;

(5) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in NRS 163.4185 if the interest has not been distributed; and

(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(ji) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

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

Sec. 8. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~in~~ **pursuant to this section**, the judgment debtor must, within ~~80~~ **20 calendar** days after the notice ~~[prescribed in NRS 21.075 is mailed,]~~ **of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on**, serve on the sheriff, **the garnishee and the** judgment creditor and file with the clerk of the court issuing the writ of execution ~~[an affidavit setting out]~~ **or garnishment** the judgment debtor's claim of exemption ~~in~~ **which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of the judgment debtor's earnings.**

~~2. The clerk of the court shall provide the form for the affidavit.~~

~~2. When the affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion for a hearing to determine whether the property or money is exempt.~~

~~The clerk of the court shall provide the form for the motion.~~

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~

~~4.] claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and~~

an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.

3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property ~~if~~ where ~~if~~

~~(a) No affidavit claiming~~ a claim of exemption is *not* served on the sheriff. ~~if~~

~~(b) An affidavit claiming exemption is served on the sheriff, but the sheriff fails to release the property in accordance with this section.~~

~~5.7~~ 6. Unless the court continues the hearing for good cause shown, the hearing on an objection to a claim of exemption to determine whether the property or money is exempt must be held within ~~10~~ 7 judicial days after the ~~motion~~ objection to the claim and notice for ~~the~~ a hearing is filed.

~~[6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.]~~ The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.

7. If the sheriff or a garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. The provisions of this section do not limit or prohibit any other remedy provided by law.

10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 9. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 10. NRS 31.045 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

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

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

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

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

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

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

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

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

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

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

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

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

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

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

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

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

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

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

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

23. Payments received as restitution for a criminal act.

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

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

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➔ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons). **If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.**

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ **an executed claim of exemption.** A copy of the ~~[affidavit]~~ **claim of exemption** must be served upon the sheriff, **the garnishee** and the judgment creditor within ~~[8]~~ **20 calendar** days after the notice of execution **or garnishment** is ~~[mailed.]~~ **served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.** The property must be ~~[returned to you]~~ **released by the garnishee or the sheriff** within ~~[5]~~ **9 judicial** days after you ~~[file]~~ **serve the [affidavit] claim of exemption upon the sheriff, garnishee and judgment creditor,** unless the ~~[judgment creditor files a motion]~~ **sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. **The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the**

judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. The hearing must be held within ~~10~~ **7 judicial** days after the ~~motion~~ **objection to the claim of exemption and notice** for a hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.

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

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

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

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to be submitted with any writ of execution, attachment or garnishment to the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants

 or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:

.....
 Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount of disposable earnings, as defined in NRS 31.295, that each defendant presently earns during a pay period. State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50

for each week of the pay period, after deducting any amount required by law to be withheld.

Calculate the attachable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: [B] Biweekly: [C] Semimonthly: [D] Monthly:

<u>(1) Gross Earnings</u>	<u>\$</u>
<u>(2) Deductions required by law (not including child support)</u>	<u>\$</u>
<u>(3) Disposable Earnings [Subtract line 2 from line 1]</u>	<u>\$</u>
<u>(4) Federal Minimum Wage</u>	<u>\$</u>
<u>(5) Multiply line 4 by 50</u>	<u>\$</u>
<u>(6) Complete the following directions in accordance with the letter selected above:</u>	
<u>[A] Multiply line 5 by 1</u>	<u>\$</u>
<u>[B] Multiply line 5 by 2</u>	<u>\$</u>
<u>[C] Multiply line 5 by 52 and then divide by 24</u>	<u>\$</u>
<u>[D] Multiply line 5 by 52 and then divide by 12</u>	<u>\$</u>
<u>(7) Subtract line 6 from line 3</u>	<u>\$</u>

This is the attachable earnings. This amount must not exceed 25% of the disposable earnings from line 3.

Answer:

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in whichis interested? If so, state its value, and state fully all particulars.

Answer:

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to or in whichis interested, and now in the possession or under the control of others? If so, state particulars.

Answer:

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 3 of this act, \$2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section 3 of this act or, if no such deposit has been made, \$1,000 or the

entire amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:

.....
State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:

.....

.....
Garnishee

I (insert the name of the garnishee), ~~[do solemnly swear (or affirm)]~~ declare under penalty of perjury that the answers to the foregoing interrogatories by me subscribed are true ~~[]~~ and correct.

.....
(Signature of garnishee)

~~[SUBSCRIBED and SWORN to before me this day of the month of of the year]~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. The garnishee shall submit his or her answers to the judgment debtor within the same time. If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee’s answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of \$3 per pay period, not to exceed \$12 per month, for each withholding made of the defendant’s earnings. This subsection does not apply to the first pay period in which the defendant’s earnings are garnished.

3. If the defendant’s employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff’s attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days

which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

Sec. 13. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~fee~~ fees described in ~~paragraph~~ paragraphs (a) and (d) of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 14. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~if they are not mingled with other money of the recipient,~~ are exempt from any remedy for the collection of all debts, except debts incurred for necessities furnished to the person or the person's spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

~~Sec. 2.]~~ **Sec. 15. NRS 687B.290 is hereby amended to read as follows:**

687B.290 1. The benefits, rights, privileges and options which under any annuity contract issued prior to or after January 1, 1972, are due or prospectively due the annuitant shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except ~~if~~

~~(a) As]~~ as to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable

the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

~~{(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he or she is an annuitant shall not at any time exceed \$350 per month for the length of time represented by such installments, and such periodic payments in excess of \$350 per month shall be subject to garnishee execution to the same extent as are wages and salaries.~~

~~{(e) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he or she is an annuitant, at any time exceed payment at the rate of \$350 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and the family of the judgment debtor, if dependent upon the judgment debtor, as well as any payments required to be made by the annuitant to other creditors under prior court orders.}~~

2. If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable or subject to commutation, and ~~{if the benefits are payable periodically or at stated times,}~~ the same exemptions and exceptions contained in this section for the annuitant shall apply with respect to such beneficiary or assignee.

Sec. 16. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Assemblyman Ohrenschall moved the adoption of the amendment.

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 Judiciary:

Amendment No. 732.

AN ACT relating to crimes; increasing the penalty for certain technological crimes; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a misdemeanor to commit certain acts that: (1) interfere with or deny access to or use of a computer, system or network; and (2) relate to the use or access of a computer, system, network, telecommunications device, telecommunications service or information service. (NRS 205.477) Under existing law, a misdemeanor is punishable by imprisonment in the county jail for a term of not more than 6 months, or a fine of up to \$1,000, or both. (NRS 193.150) This bill increases the penalty for engaging in such acts from a misdemeanor to a ~~category E felony~~ **gross misdemeanor** which is punishable by imprisonment in the ~~state prison~~ **county jail** for a ~~minimum~~ term of not ~~less~~ **more** than 1 year ~~and a maximum term of not more than 4 years and the court may also impose~~, **or** a fine of ~~not more than \$5,000. For this category of felony, the court is required to grant probation except in certain circumstances.~~ **up to \$2,000, or both.**

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

Section 1. NRS 205.477 is hereby amended to read as follows:

205.477 1. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully, **maliciously** and without authorization interferes with, denies or causes the denial of access to or use of a computer, system or network to a person who has the duty and right to use it is guilty of a **gross misdemeanor**. ~~category E felony and shall be punished as provided in NRS 193.130.~~

2. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully, **maliciously** and without authorization uses, causes the use of, accesses, attempts to gain access to or causes access to be gained to a computer, system, network, telecommunications device, telecommunications service or information service is guilty of a **gross misdemeanor**. ~~category E felony and shall be punished as provided in NRS 193.130.~~

3. If the violation of any provision of this section:

(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;

(b) Caused ~~for attempted to cause~~ response costs, loss, injury or other damage in excess of \$500; or

(c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity,
 ↳ the person is guilty of a category C felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.

4. It is an affirmative defense to a charge made pursuant to this section that at the time of the alleged offense the defendant reasonably believed that:

(a) The defendant was authorized to use or access the computer, system, network, telecommunications device, telecommunications service or information service and such use or access by the defendant was within the scope of that authorization; or

(b) The owner or other person authorized to give consent would authorize the defendant to use or access the computer, system, network, telecommunications device, telecommunications service or information service.

5. A defendant who intends to offer an affirmative defense described in subsection 4 at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 739.

AN ACT relating to common-interest communities; revising provisions relating to the information which must be provided by a unit's owner in a resale transaction; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises provisions relating to the information which must be provided in a resale package by a unit's owner for the benefit of a purchaser in a resale transaction.

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

Section 1. 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 or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095. ~~{}~~

(b) A statement *from the association* setting forth the amount of the monthly assessment for common expenses and any unpaid ~~assessment~~ ***obligation*** of any kind, ***including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees*** currently due from the selling unit's owner. ~~{}~~ ***The statement remains effective for the period specified in the statement, which must not be less than 15 working days from the date of delivery by the association to the unit's owner or his or her agent. If the association becomes aware of an error in the statement during the period in which the statement is effective but before the consummation of the resale, the association must deliver a replacement statement to the unit's owner or his or her agent and obtain an acknowledgment in writing by the unit's owner or his or her agent before that consummation. Unless the unit's owner or his or her agent receives a replacement statement, the unit's owner or his or her agent may rely upon the accuracy of the information set forth in a statement provided by the association for the resale.***

(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. ~~{}~~

(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. ~~{}~~

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit. ~~{; and}~~

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

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, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the

notice of cancellation by prepaid United States mail to the unit's owner or his or her 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 or her 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 or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her 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), (d) and (e) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her 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~~ purchaser is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his or her 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 or her 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.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

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

Assembly in recess at 11:15 a.m.

ASSEMBLY IN SESSION

At 11:21 a.m.

Madam Speaker pro Tempore presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 358 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 140 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 358.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 642.

JOINT SPONSOR: ASSEMBLYMAN OHRENSCHALL

AN ACT relating to regional transportation commissions; revising provisions pertaining to vending stands provided for by such a commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a priority of right for persons who are blind or visually impaired to operate vending stands in or on any public buildings or properties. (NRS 426.640) Existing law also exempts from that priority of right vending stands in any building, terminal or parking facility owned, operated or leased by a regional transportation commission in a county whose population is 400,000 or more (currently Clark County).

(NRS 277A.320) Section 2 of this bill removes that exemption for both existing and future contracts. Section 3 of this bill clarifies that the removal of the exemption applies with respect to any vending stand contract entered into by such a regional transportation commission on or after the effective date of this bill, and that any such existing vending stand contract must comply with the amendatory provisions of this bill on and after July 1, 2011.

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:

1. There is a great need, as described in NRS 426.640, to provide persons who are blind with remunerative employment, enlarge the economic opportunities of persons who are blind and stimulate persons who are blind to greater efforts to make themselves self-supporting with independent livelihoods; and

2. It is the policy of the Legislature and of this State to support the needs of persons who are blind by vigorously enforcing and promoting the provisions of NRS 426.630 to 426.720, inclusive.

Sec. 2. NRS 277A.320 is hereby amended to read as follows:

277A.320 1. In a county whose population is 400,000 or more, the commission may provide for the construction, installation and maintenance of vending stands for passengers of public mass transportation in any building, terminal or parking facility owned, operated or leased by the commission.

2. The provisions of NRS 426.630 to 426.720, inclusive, ~~do not~~ apply to a vending stand constructed, installed or maintained pursuant to this section.

Sec. 3. 1. The amendatory provisions of this act apply to any contract for the operation of a vending stand that is entered into on or after the effective date of this act.

2. In addition to the provisions of subsection 1, all contracts for the operation of a vending stand that are in existence on the date on which this act becomes effective and are affected by the amendatory provisions of this act must be in compliance with the amendatory provisions of this act on and after July 1, 2011.

3. As used in this section, "vending stand" has the meaning ascribed to it in NRS 426.630.

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

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 196.

The following Senate amendment was read:

Amendment No. 571.

SUMMARY—Revises provisions governing the collection of fines, administrative assessments, ~~fees~~ **and** fees ~~and restitution~~ owed by certain convicted persons. (BDR 14-557)

AN ACT relating to the State Controller; authorizing a county treasurer to enter into a cooperative agreement with the Office of the State Controller for the purpose of assigning the responsibility of collecting fines, administrative assessments, ~~fees~~ **and** fees ~~and restitution~~ from certain criminal defendants; making various changes relating to the collection of fines, administrative assessments, ~~fees~~ **and** fees ~~and restitution~~ from certain criminal defendants; making various changes relating to debt collection between this State and the Federal Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a fine, administrative assessment, fee or restitution imposed upon a defendant is delinquent: (1) the defendant is liable for a collection fee; (2) the entity responsible for collecting the delinquent amount may report the delinquency to credit reporting agencies, may contract with a collection agency and may request that the court take appropriate action; and (3) the court may request that a prosecuting attorney undertake collection efforts, may order the suspension of the driver's license of the defendant and may, in the case of a delinquent fine or administrative assessment, order that the defendant be confined in the appropriate prison, jail or detention facility. (NRS 176.064)

Sections 7 and 11 of this bill require the district court to forward to the county treasurer the necessary information for the collection of the debt of a criminal defendant. If a county is unable to collect the debt, **sections 7, 11 and 14** of this bill authorize the county treasurer to enter into a cooperative agreement with the Office of the State Controller for the purpose of assigning to the Office of the State Controller the responsibility for collecting the debt.

Under existing law, a judgment entered by the court ordering a defendant to pay a fine, administrative assessment or restitution constitutes a lien. (NRS 176.275) **Section 8** of this bill requires a district court judge to inform a defendant at the time of sentencing of the provisions of NRS 176.275, and that if the lien is not satisfied, collection efforts may be undertaken against the defendant.

Sections 9 and 12 of this bill require a defendant to pay costs and fees associated with the efforts to collect a debt.

Section 14 authorizes the Office of the State Controller to enter into a cooperative agreement with a governmental entity for the purpose of

establishing the Office of the State Controller as the collection agent for the governmental entity.

Section 15 of this bill authorizes the State Controller or his or her designee to enter into a reciprocal agreement with the Federal Government for the collection and offset of indebtedness.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 7, 8 and 9 of this act.

Sec. 7. 1. *If a fine, administrative assessment ~~or~~ or fee ~~for~~ for ~~restitution~~ is imposed pursuant to this chapter upon a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the district court entering the judgment of conviction shall forward to the county treasurer or other office assigned by the county to make collections the information necessary to collect the fine, administrative assessment ~~or~~ or fee ~~for~~ for ~~restitution~~. The county treasurer or other office assigned by the county to make collections is responsible for such collection efforts and has the authority to collect the fine, administrative assessment ~~or~~ or fee ~~for~~ for ~~restitution~~.*

2. If the county treasurer or other office assigned by the county to make collections is unable to collect the fine, administrative assessment ~~or~~ or fee ~~for~~ for ~~restitution~~ after 60 days, the county treasurer may assign to the Office of the State Controller the responsibility for collection of the fine, administrative assessment ~~or~~ or fee ~~for~~ for ~~restitution~~ through a cooperative agreement pursuant to section 14 of this act, so long as the Office of the State Controller is willing and able to make such collection efforts.

3. If the county treasurer and the Office of the State Controller enter into a cooperative agreement pursuant to section 14 of this act, the county treasurer or other county office assigned by the county to make collections shall forward to the Office of the State Controller the necessary information. For the purposes of this section, the information necessary to collect the fine, administrative assessment ~~or~~ or fee ~~for~~ for ~~restitution~~ shall be considered and limited to:

- (a) The name of the defendant;*
- (b) The date of birth of the defendant;*
- (c) The social security number of the defendant;*
- (d) The last known address of the defendant; and*
- (e) The nature and the amount of money owed by the defendant.*

4. If the Office of the State Controller is successful in collecting the fine, administrative assessment ~~or fee~~, ~~for restitution~~, the money collected must be returned to the originating county, minus the costs and fees actually incurred in collecting the fine, administrative assessment ~~or fee~~ ~~for restitution~~ pursuant to section 9 of this act.

5. Any money collected pursuant to subsection 4 must be deposited in the State Treasury, pursuant to NRS 176.265.

6. Any record created pursuant to subsection 3 that contains personal identifying information shall not be considered a public record pursuant to NRS 239.010 and must be treated pursuant to NRS 239.0105.

7. Unless otherwise prohibited by law, the entity responsible for collecting the fine, administrative assessment ~~or fee~~ ~~for restitution~~ pursuant to this section ~~or fee~~ has the authority to compromise the amount to be collected for the purpose of satisfying the judgment.

Sec. 8. If a district court imposes a fine, administrative assessment ~~or fee~~ ~~for restitution~~ upon a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the district court judge shall advise the defendant at the time of sentencing that:

1. The judgment constitutes a lien, pursuant to NRS 176.275; and

2. If the defendant does not satisfy the lien, collection efforts may be undertaken against the defendant pursuant to the laws of this State.

Sec. 9. 1. A defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill who owes a fine, administrative assessment ~~or fee~~, ~~for restitution~~, pursuant to section 7 of this act, must be assessed by and pay to the county treasurer or other office assigned by the county to make collections the following costs and fees if the county treasurer or other office assigned by the county to make collections is successful in collecting the fine, administrative assessment ~~or fee~~ ~~for restitution~~:

(a) The costs and fees actually incurred in collecting the fine, administrative assessment ~~or fee~~ ~~for restitution~~; and

(b) A fee payable to the county treasurer in the amount of 2 percent of the amount of the fine, administrative assessment ~~or fee~~ ~~for restitution~~ assigned to the county treasurer or other office assigned by the county to make collections.

2. The total amount of the costs and fees required to be collected pursuant to subsection 1 must not exceed 35 percent of the amount of the fine, administrative assessment ~~or fee~~ ~~for restitution~~ or \$50,000, whichever is less.

Sec. 10. Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this act.

Sec. 11. 1. If a district court orders a defendant to pay for expenses incurred by the county or State in providing the defendant with an attorney pursuant to NRS 178.3975 or makes an execution on the property of the

defendant pursuant to NRS 178.398, the district court entering the judgment shall forward to the county treasurer or other office assigned by the county to make collections the information necessary to collect the fee. The county treasurer or other office assigned by the county to make collections is responsible for such collection efforts and has the authority to collect the fee.

2. If the county treasurer or other office assigned by the county to make collections is unable to collect the fee after 60 days, the county treasurer may assign to the Office of the State Controller the responsibility for collection of the fee through a cooperative agreement pursuant to section 14 of this act, so long as the Office of the State Controller is willing and able to make such collection efforts.

3. If the county treasurer and the Office of the State Controller enter into a cooperative agreement pursuant to section 14 of this act, the county treasurer or other county office assigned by the county to make collections shall forward to the Office of the State Controller the necessary information. For purposes of this section, the information necessary to collect the fee shall be considered and limited to:

- (a) The name of the defendant;*
- (b) The date of birth of the defendant;*
- (c) The social security number of the defendant;*
- (d) The last known address of the defendant; and*
- (e) The nature and the amount of money owed by the defendant.*

4. If the Office of the State Controller is successful in collecting the fee, the money collected must be returned to the originating county, minus the costs and fees actually incurred in collecting the fee.

5. Any money collected must be paid to the county or state public defender's office which bore the expense and which was not reimbursed by another governmental agency, pursuant to NRS 178.3975.

6. Any record created pursuant to subsection 3 that contains personal identifying information shall not be considered a public record pursuant to NRS 239.010 and must be treated pursuant to NRS 239.0105.

7. Unless otherwise prohibited by law, the entity responsible for collecting the fee pursuant to this section, has the authority to compromise the amount to be collected for the purpose of satisfying the judgment.

Sec. 12. 1. A defendant who owes a fee pursuant to section 11 of this act, must be assessed by and pay to the county treasurer or other office assigned by the county to make collections, the following costs and fees if the county treasurer or other office assigned by the county to make collections is successful in collecting the fee:

- (a) The costs and fees actually incurred in collecting the fee; and*
- (b) A fee payable to the county treasurer in the amount of 2 percent of the amount of the fee assigned to the county treasurer or other office assigned by the county to make collections.*

2. The total amount of the costs and fees required to be collected pursuant to subsection 1 must not exceed 35 percent of the amount of the fee or \$50,000, whichever is less.

Sec. 13. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. *The Office of the State Controller may act as the collection agent for any governmental entity pursuant to a cooperative agreement entered into between the Office of the State Controller and the governmental entity.*

Sec. 15. *The State Controller or his or her designee may enter into a reciprocal agreement with the Federal Government for the collection and offset of indebtedness, pursuant to which the State will offset from state tax refunds and from payments otherwise due to vendors and contractors providing goods or services to the departments, agencies or institutions of this State, non tax related debt owed to the Federal Government, and the Federal Government will offset from federal payments to vendors and taxpayers debt owed to the State of Nevada.*

Sec. 16. This act becomes effective on July 1, 2011.

Assemblyman Horne moved that the Assembly concur in the Senate amendment to Assembly Bill No. 196.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 282.

The following Senate amendment was read:

Amendment No. 780.

BROWER, CEGAUSKE, Denis ~~AND~~ GUSTAVSON, HALSETH, HARDY, KIECKHEFER, MCGINNESS, Rhoads, ROBERSON AND SETTELMAYER

AN ACT relating to firearms; revising provisions concerning permits to carry concealed semiautomatic firearms; revising provisions governing the renewal of a permit to carry a concealed firearm; revising provisions concerning the confidentiality of information relating to permits to carry concealed firearms; revising provisions governing the possession of firearms in state parks; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who wishes to carry a concealed firearm must obtain a permit to carry the firearm. (NRS 202.3657) As part of the application process to obtain a permit, an applicant must undergo an investigation by a sheriff to determine if the applicant is eligible for a permit. Such an investigation must include a report from the Federal Bureau of Investigation. (NRS 202.366) **Section 2** of this bill additionally requires an applicant for the renewal of a permit to undergo an investigation by the sheriff. **Section 2** also specifies that an investigation conducted by the sheriff

for an initial application or a renewal application must include a report from the National Instant Criminal Background Check System. ~~[Section 4 of this bill revises the fee for the renewal of a permit from \$25 to the amount of the actual cost to obtain the reports required as part of the investigation by the sheriff.]~~

Existing law also provides that a qualified applicant for a permit to carry a concealed firearm may obtain a permit for revolvers, for one or more specific semiautomatic firearms, or for revolvers and one or more specific semiautomatic firearms. (NRS 202.3657) If the application for a permit involves semiautomatic firearms, the applicant must state the make, model and caliber of each semiautomatic firearm for which the applicant is seeking to obtain a permit. (NRS 202.366) Additionally, to receive and renew a permit involving semiautomatic firearms, an applicant or permittee must demonstrate competence with each semiautomatic firearm to which the application pertains. (NRS 202.3657, 202.3677) **Section 1** of this bill provides that: (1) a qualified applicant for a permit to carry a concealed firearm may obtain one permit for all semiautomatic firearms that the applicant seeks to carry instead of being required to obtain a permit for each specific semiautomatic firearm; and (2) an applicant or permittee may demonstrate competence with semiautomatic firearms in general rather than with each specific semiautomatic firearm.

Existing law further provides that information in an application for a permit to carry a concealed firearm and all information relating to the investigation of an applicant for such a permit is confidential. (NRS 202.3662) However, the Nevada Supreme Court recently held in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010), that the identity of a holder of a permit to carry a concealed firearm and any postpermit records of investigation, suspension or revocation are not confidential and are therefore public records. **Section 3** of this bill provides that the identity and any information acquired during the investigation of a holder of a permit to carry a concealed firearm are confidential, as are any records regarding the suspension, restoration or revocation of such a permit.

Existing law also allows the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to adopt regulations, including, without limitation, prohibitions and restrictions on activities within parks or recreational facilities within the jurisdiction of the Division. (NRS 407.0475) Existing administrative regulations allow a person to carry a concealed firearm in a state park if the person complies with existing laws concerning the carrying of concealed weapons but prohibit a person from discharging a firearm in a state park. (NAC 407.105) Any person who violates a regulation adopted by the Administrator is guilty of a misdemeanor. (NRS 407.0475) While existing law prohibits the discharge of a firearm under various circumstances, it also provides certain defenses for violating such provisions by allowing a person to make sufficient resistance

to prevent the occurrence of certain offenses. (NRS 202.280-202.290, 193.230-193.250)

Section 5 of this bill prohibits the Administrator from adopting any regulation concerning the possession of firearms in state parks or recreational facilities which is more restrictive than the laws of this State relating to: (1) the possession of firearms; and (2) engaging in lawful resistance to prevent an offense against a person or property. **Section 5** also voids any regulation which conflicts with such laws.

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

Section 1. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, ~~one or more specific~~ **for** semiautomatic firearms, or for revolvers and ~~one or more specific~~ semiautomatic firearms, as applicable, to any person who is qualified to possess the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with revolvers, ~~each specific~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms**, as applicable, by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

↪ Such a course must include instruction in the use of revolvers, ~~each~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms** and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.
(b) Has been judicially declared incompetent or insane.
(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this

section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) ~~[(The make, model and caliber of each semiautomatic firearm to which the application pertains, if any;~~

~~(g)]~~ **Whether the application pertains to semiautomatic firearms;**

(g) Whether the application pertains to revolvers;

(h) A nonrefundable fee in the amount necessary ~~for the actual cost~~ to obtain the ~~report~~ **reports** required pursuant to subsection 1 of NRS 202.366; and

(i) A nonrefundable fee set by the sheriff not to exceed \$60.

Sec. 2. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, **including an application for the renewal of a permit pursuant to NRS 202.3677**, the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. **The investigation also must include a report from the National Instant Criminal Background Check System.** The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting the investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily

submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County..... Permit Number

Expires..... Date of Birth

Height..... Weight.....

Name..... Address.....

City..... Zip.....

Photograph

Signature

Issued by

Date of Issue

~~[Make, model and caliber of each authorized semiautomatic firearm, if any]~~

Semiautomatic firearms authorized..... Yes.....No

Revolvers authorized.....Yes.....No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. As used in this section, “National Instant Criminal Background Check System” means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.

Sec. 3. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:

(a) An application for a permit, and all information contained within that application; ~~and~~

(b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant ~~;~~ **or permittee;**

(c) The identity of the permittee; and

(d) Any records regarding the suspension, restoration or revocation of a permit,

↪ are confidential.

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive, including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must ~~complete~~ :

(a) **Complete** and submit to the sheriff who issued the permit an application for renewal of the permit ~~[-]~~; **and**

(b) **Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.**

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee of \$25. ~~in the amount of the actual cost to obtain the reports required pursuant to subsection 1 of NRS 202.366.~~

↪ If a permittee fails to renew his or her permit on or before the date of expiration of the permit, the application for renewal must include an additional nonrefundable late fee of \$15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with revolvers, with ~~each~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or with revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms**, as applicable, by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 5. NRS 407.0475 is hereby amended to read as follows:

407.0475 1. The Administrator shall adopt such regulations as he or she finds necessary for carrying out the provisions of this chapter and other provisions of law governing the operation of the Division. ~~The~~ **Except as otherwise provided in subsection 2, the** regulations may include prohibitions and restrictions relating to activities within any of the park or recreational facilities within the jurisdiction of the Division.

2. Any regulations relating to the conduct of persons within the park or recreational facilities must:

(a) Be directed toward one or both of the following:

(1) Prevention of damage to or misuse of the facility.

(2) Promotion of the inspiration, use and enjoyment of the people of this State through the preservation and use of the facility.

(b) Apply separately to each park, monument or recreational area and be designed to fit the conditions existing at that park, monument or recreational area.

(c) Not establish restrictions on the possession of firearms within the park or recreational facility which are more restrictive than the laws of this State relating to:

(1) The possession of firearms; or

(2) Engaging in lawful resistance to prevent an offense against a person or property.

↪ *Any regulation which violates the provisions of this paragraph is void.*

3. Any person whose conduct violates any regulation adopted pursuant to subsection 1, and who refuses to comply with the regulation upon request by any ranger or employee of the Division who has the powers of a peace officer pursuant to NRS 289.260, is guilty of a misdemeanor.

Sec. 5.5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. This act becomes effective on July 1, 2011.

Assemblyman Horne moved that the Assembly do not concur in the Senate Amendment No. 780 to Assembly Bill No. 282.

Remarks by Assemblyman Horne.

Motion carried.

The following Senate amendment was read:

Amendment No. 576.

AN ACT relating to firearms; revising provisions concerning permits to carry concealed semiautomatic firearms; revising provisions governing the renewal of a permit to carry a concealed firearm; revising provisions concerning the confidentiality of information relating to permits to carry concealed firearms; revising provisions governing the possession of firearms in state parks; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who wishes to carry a concealed firearm must obtain a permit to carry the firearm. (NRS 202.3657) As part of the application process to obtain a permit, an applicant must undergo an investigation by a sheriff to determine if the applicant is eligible for a permit. Such an investigation must include a report from the Federal Bureau of Investigation. (NRS 202.366) **Section 2** of this bill additionally requires an applicant for the renewal of a permit to undergo an investigation by the sheriff. **Section 2** also specifies that an investigation conducted by the sheriff for an initial application or a renewal application must include a report from the National Instant Criminal Background Check System. **Section 4** of this bill revises the fee for the renewal of a permit from \$25 to the amount of the actual cost to obtain the reports required as part of the investigation by the sheriff.

Existing law also provides that a qualified applicant for a permit to carry a concealed firearm may obtain a permit for revolvers, for one or more specific semiautomatic firearms, or for revolvers and one or more specific semiautomatic firearms. (NRS 202.3657) If the application for a permit

involves semiautomatic firearms, the applicant must state the make, model and caliber of each semiautomatic firearm for which the applicant is seeking to obtain a permit. (NRS 202.366) Additionally, to receive and renew a permit involving semiautomatic firearms, an applicant or permittee must demonstrate competence with each semiautomatic firearm to which the application pertains. (NRS 202.3657, 202.3677) **Section 1** of this bill provides that: (1) a qualified applicant for a permit to carry a concealed firearm may obtain one permit for all semiautomatic firearms that the applicant seeks to carry instead of being required to obtain a permit for each specific semiautomatic firearm; and (2) an applicant or permittee may demonstrate competence with semiautomatic firearms in general rather than with each specific semiautomatic firearm.

Existing law further provides that information in an application for a permit to carry a concealed firearm and all information relating to the investigation of an applicant for such a permit is confidential. (NRS 202.3662) However, the Nevada Supreme Court recently held in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010), that the identity of a holder of a permit to carry a concealed firearm and any postpermit records of investigation, suspension or revocation are not confidential and are therefore public records. **Section 3** of this bill provides that the identity and any information acquired during the investigation of a holder of a permit to carry a concealed firearm are confidential, as are any records regarding the suspension, restoration or revocation of such a permit.

Existing law also allows the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to adopt regulations, including, without limitation, prohibitions and restrictions on activities within parks or recreational facilities within the jurisdiction of the Division. (NRS 407.0475) Existing administrative regulations allow a person to carry a concealed firearm in a state park if the person complies with existing laws concerning the carrying of concealed weapons but prohibit a person from discharging a firearm in a state park. (NAC 407.105) Any person who violates a regulation adopted by the Administrator is guilty of a misdemeanor. (NRS 407.0475) While existing law prohibits the discharge of a firearm under various circumstances, it also provides certain defenses for violating such provisions by allowing a person to make sufficient resistance to prevent the occurrence of certain offenses. (NRS 202.280-202.290, 193.230-193.250)

Section 5 of this bill prohibits the Administrator from adopting any regulation concerning the possession of firearms in state parks or recreational facilities which is more restrictive than the laws of this State relating to: (1) the possession of firearms; and (2) engaging in lawful resistance to prevent an offense against a person or property. **Section 5** also voids any regulation which conflicts with such laws.

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

Section 1. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, ~~[one or more specific]~~ **for** semiautomatic firearms, or for revolvers and ~~[one or more specific]~~ semiautomatic firearms, as applicable, to any person who is qualified to possess the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

- (a) Is 21 years of age or older;
- (b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and
- (c) Demonstrates competence with revolvers, ~~[each specific]~~ semiautomatic ~~[firearm to which the application pertains,]~~ **firearms**, or revolvers and ~~[each such]~~ semiautomatic ~~[firearm,]~~ **firearms**, as applicable, by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

↪ Such a course must include instruction in the use of revolvers, ~~[each]~~ semiautomatic ~~[firearm to which the application pertains,]~~ **firearms**, or revolvers and ~~[each such]~~ semiautomatic ~~[firearm]~~ **firearms** and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

- (a) Has an outstanding warrant for his or her arrest.
- (b) Has been judicially declared incompetent or insane.
- (c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.
- (d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this

paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

- (1) Convicted of violating the provisions of NRS 484C.110; or
 - (2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.
- (e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.
- (f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.
- (g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.
- (h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.
- (i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:
- (1) Withholding of the entry of judgment for a conviction of a felony; or
 - (2) Suspension of sentence for the conviction of a felony.
- (j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) ~~the make, model and caliber of each semiautomatic firearm to which the application pertains, if any;~~

~~(g)~~ **Whether the application pertains to semiautomatic firearms;**

(g) Whether the application pertains to revolvers;

(h) A nonrefundable fee in the amount ~~necessary~~ **of the actual cost** to obtain the ~~report~~ **reports** required pursuant to subsection 1 of NRS 202.366; and

(i) A nonrefundable fee set by the sheriff not to exceed \$60.

Sec. 2. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, **including an application for the renewal of a permit pursuant to NRS 202.3677**, the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. **The investigation also must include a report from the National Instant Criminal Background Check System.** The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting the investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as

may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County.....	Permit Number.....
Expires.....	Date of Birth
Height.....	Weight.....
Name.....	Address.....
City.....	Zip

Photograph

Signature.....

Issued by.....

Date of Issue

~~[Make, model and caliber of each authorized semiautomatic firearm, if any]~~

Semiautomatic firearms authorized..... Yes..... No

Revolvers authorized..... Yes..... No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. *As used in this section, “National Instant Criminal Background Check System” means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.*

Sec. 3. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:

(a) An application for a permit, and all information contained within that application; ~~and~~

(b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant ~~and~~ *or permittee;*

(c) The identity of the permittee; and

(d) Any records regarding the suspension, restoration or revocation of a permit,

~~are confidential.~~

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive, including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must ~~complete~~ :

(a) Complete and submit to the sheriff who issued the permit an application for renewal of the permit ~~and~~ ; *and*

(b) Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee ~~of \$25.~~ **in the amount of the actual cost to obtain the reports required pursuant to subsection 1 of NRS 202.366.**

↪ If a permittee fails to renew his or her permit on or before the date of expiration of the permit, the application for renewal must include an additional nonrefundable late fee of \$15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with revolvers, with ~~each~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or with revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms**, as applicable, by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 5. NRS 407.0475 is hereby amended to read as follows:

407.0475 1. The Administrator shall adopt such regulations as he or she finds necessary for carrying out the provisions of this chapter and other provisions of law governing the operation of the Division. ~~The~~ **Except as otherwise provided in subsection 2, the** regulations may include prohibitions and restrictions relating to activities within any of the park or recreational facilities within the jurisdiction of the Division.

2. Any regulations relating to the conduct of persons within the park or recreational facilities must:

(a) Be directed toward one or both of the following:

(1) Prevention of damage to or misuse of the facility.

(2) Promotion of the inspiration, use and enjoyment of the people of this State through the preservation and use of the facility.

(b) Apply separately to each park, monument or recreational area and be designed to fit the conditions existing at that park, monument or recreational area.

(c) **Not establish restrictions on the possession of firearms within the park or recreational facility which are more restrictive than the laws of this State relating to:**

(1) The possession of firearms; or

(2) Engaging in lawful resistance to prevent an offense against a person or property.

↪ **Any regulation which violates the provisions of this paragraph is void.**

3. Any person whose conduct violates any regulation adopted pursuant to subsection 1, and who refuses to comply with the regulation upon request by any ranger or employee of the Division who has the powers of a peace officer pursuant to NRS 289.260, is guilty of a misdemeanor.

Sec. 6. This act becomes effective on July 1, 2011.

Assemblyman Horne moved that the Assembly concur in the Senate Amendment No. 576 to Assembly Bill No. 282.

Remarks by Horne.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 498.

The following Senate amendment was read:

Amendment No. 621.

SUMMARY—~~[Eliminates]~~ **Suspends temporarily** the (BDR requirement for the administration of norm-referenced examinations in public schools. 34-1174)

AN ACT relating to education; ~~[eliminating]~~ **suspending temporarily** the requirement for the administration of norm-referenced examinations in public schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district and the governing body of each charter school to administer norm-referenced examinations in grades 4, 7 and 10 which compare the results of pupils enrolled in those grades in public schools in this State to a national reference group of pupils. (NRS 389.015) Senate Bill No. 416 of the 2009 Legislative Session suspended temporarily the administration of the norm-referenced examinations for the 2009-2011 biennium. (Chapter 423, Statutes of Nevada 2009, p. 2340) This bill ~~[eliminates the statutory requirement for]~~ **again suspends temporarily** the administration of **the** norm-referenced examinations ~~[and revises existing law to delete references to the norm-referenced examinations.]~~ **for the 2011-2013 biennium.**

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

Section1 . (Deleted by amendment.)

Sec.2 . (Deleted by amendment.)

Sec.3 . (Deleted by amendment.)

Sec.4 . (Deleted by amendment.)

Sec.5 . (Deleted by amendment.)

Sec.6 . (Deleted by amendment.)

Sec.7 . (Deleted by amendment.)

Sec.7 .5. Notwithstanding the provisions of NRS 389.015 to the contrary, the norm-referenced examinations required to be administered to pupils enrolled in grades 4, 7 and 10 pursuant to that section must not be administered in the public schools of this State during the 2011-2012 school year and the 2012-2013 school year. Any requirements relating to the reporting of test scores of pupils on those examinations that would otherwise be administered during those school years are also suspended.

Sec.8 .This act becomes effective upon passage and approval. †

~~TEXT OF REPEALED SECTION~~

~~Establishment of statewide program —389.640 for preparation of pupils to take examinations; compliance with program required of school districts and schools; use of additional materials and information.~~

~~The Department shall establish a statewide —1. program for use by schools and school districts in their preparation for the examinations that are administered pursuant to NRS 389.015, excluding the high school proficiency examination. The program must:~~

~~Be designed to ensure the consistency and (a) uniformity of all materials and other information used in the preparation for the examinations; and~~

~~Be designed to ensure that the actual (b) examinations administered pursuant to NRS 389.015 are not included within the materials and other information used for preparation.~~

~~If a school, including, without —2. limitation, a charter school, or a school district provides preparation for the examinations that are administered pursuant to NRS 389.015, excluding the high school proficiency examination, the school or school district shall comply with the program established pursuant to subsection 1. A school district may use and provide additional materials and information if the materials and information comply with the program established by the Department. A school, including, without limitation, a charter school, shall use only those materials and information that have been approved or provided by the Department or the school district.]~~

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 498.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 11:39 a.m.

ASSEMBLY IN SESSION

At 5:38 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which was rereferred Senate Bill No. 135, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 309, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 27, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 122, Amendment No. 707; Assembly Bill No. 132, Amendment No. 687; Assembly Bill No. 160, Amendment No. 664; Assembly Bill No. 179, Amendment No. 773; Assembly Bill No. 230, Amendment No. 727; Assembly Bill No. 238, Amendment No. 633; Assembly Bill No. 283, Amendment No. 705; Assembly Bill No. 289, Amendment No. 709, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 362, Senate Amendment No. 610, and requests a conference, and appointed Senators Kihuen, Hardy and Copening as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 439, 452, 499.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 271, 359.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 13.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 13.

Assemblywoman Mastroluca moved the adoption of the resolution.

Remarks by Assemblywoman Mastroluca.

Resolution adopted and ordered transmitted to the Senate.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 271.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 359.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 439.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 452.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 499.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 135 and 309, just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 135.

Bill read second time.

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

Amendment No. 757.

AN ACT relating to occupational diseases; revising provisions governing the presumption that certain occupational diseases arise out of the employment of certain persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides a presumption that certain occupational diseases, including heart disease, lung disease, cancer and hepatitis, diagnosed after the termination of the employment of a person in certain occupations, including as a police officer, firefighter or arson investigator, arose out of the employment of the person if the person was employed full-time, continuously for 5 years or more. (NRS 617.453, 617.455, 617.457, 617.485, 617.487) This bill limits the benefits available for certain occupational diseases that arose out of such employment by providing that the benefits are only available ~~until if the person is eligible for Medicare unless the person began receiving benefits while employed or the person ceased employment before reaching an age at which the person is eligible for an unreduced retirement benefit.~~

~~Additionally, sections 2 and 3 of this bill limit the ability of a person to file for benefits for certain diseases of the lungs and heart. Under sections 2 and 3, a person must~~ **file a claim within a limited period after terminating employment. For certain diseases of the lungs and heart, sections 2 and 3 require a person to** file a claim for benefits within 5 years of ceasing employment if the person ceases employment before reaching an age at which the person is eligible for an unreduced retirement benefit.

The provisions of this bill apply only to a person hired on or after July 1, 2011.

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

Section 1. NRS 617.453 is hereby amended to read as follows:

617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who, for 5 years or more, has been:

(1) Employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public; or

(2) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; and

(b) It is demonstrated that:

(1) The person was exposed, while in the course of the employment, to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen is reasonably associated with the disabling cancer.

2. With respect to a person who, for 5 years or more, has been employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

(a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.

(b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.

(c) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(d) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

(e) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(f) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(g) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or haematopoietic cancer.

(h) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.

(i) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.

(j) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.

(k) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen that is reasonably associated with a disabling cancer.

4. Compensation awarded to the employee or his or her dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

5. Disabling cancer is presumed to have developed or manifested itself out of and in the course of the employment of any firefighter ~~described in this section~~ *who has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter for 5 years or more before the date of the diagnosis*. This rebuttable presumption applies to disabling cancer diagnosed ~~after~~ :

(a) *During the person's employment; or*

(b) *After the termination of the person's employment if the diagnosis occurs within a period, not to exceed ~~60 months~~, 5 years after the termination of the person's employment*, which begins with the last date the employee actually worked in the qualifying capacity . ~~and extends for a period calculated by multiplying 3 months by the number of full years of his or her employment.~~

↪ This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.

6. The provisions of this section do not create a conclusive presumption.

~~7. Except as otherwise provided in subsection 8, if a person qualifies for medical benefits pursuant to this section, the person may:~~

~~(a) Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and~~

~~(b) Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.~~

~~8. The provisions of subsection 7 do not apply to a person who:~~

~~(a) Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or~~

~~(b) Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.~~

~~9. As used in this section, "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.~~

Sec. 2. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.

2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the employee's lungs, upon employment, upon commencement of the coverage, once every even-numbered year until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. A thorough test of the functioning of the lungs is not required for a volunteer firefighter.

4. All physical examinations required pursuant to subsection 2 must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for 5 years or more before the date of disablement.

6. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after the annual examination excludes the employee from the benefits of this section if the correction is within the ability of the employee.

7. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator,

↳ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

~~8. Except as otherwise provided in subsection 9, if a person qualifies for medical benefits pursuant to this section, the person may:~~

~~(a) Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and~~

~~(b) Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.~~

~~9. The provisions of subsection 8 do not apply to a person who:~~

~~(a) Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or~~

~~(b) Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.~~

~~10. Except as otherwise provided in subsection ~~11~~ 9, a person may not file a claim for benefits pursuant to this section more than 5 years after ceasing employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.~~

~~11~~ 9. The provisions of subsection ~~10~~ 8 do not limit the ability of a person:

(a) Pursuant to any other provision of law to reopen a claim for benefits pursuant to this section if the original claim for benefits which is to be reopened was filed and accepted in accordance with the provisions of this section; or

(b) To file a claim pursuant to any provision of law other than this section, including, without limitation, NRS 617.440.

~~12. As used in this section, "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.~~

Sec. 3. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 5 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment.

2. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

3. Except as otherwise provided in subsection 4, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his or her employment.

4. A physical examination for a volunteer firefighter is required upon initial employment and once every 3 years after the initial examination until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once each year.

5. The employer of the volunteer firefighter is responsible for scheduling the physical examination.

6. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection 5 excludes the volunteer firefighter from the benefits of this section.

7. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

(a) Applies to the department for the first time as a volunteer firefighter; and

(b) Is 50 years of age or older on the date of his or her application.

8. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

(a) Paid for the physical examination in accordance with subsection 7;

(b) Is declared physically fit to perform the duties required of a firefighter;

and

(c) Becomes a volunteer with the volunteer fire department.

9. Except as otherwise provided in subsection 7, all physical examinations required pursuant to subsections 3 and 4 must be paid for by the employer.

10. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to the annual examination excludes the employee from the benefits of this section if the correction is within the ability of the employee.

11. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, arson investigator or police officer,
 ↪ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

12. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

~~13. Except as otherwise provided in subsection 14, if a person qualifies for medical benefits pursuant to this section, the person may:~~

~~(a) Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and~~

~~(b) Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.~~

~~14. The provisions of subsection 13 do not apply to a person who:~~

~~(a) Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or~~

~~(b) Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.~~

~~15. Except as otherwise provided in subsection 14, a person may not file a claim for benefits pursuant to this section more than 5 years after ceasing employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.~~

~~16. 14. The provisions of subsection 13 do not limit the ability of a person:~~

(a) Pursuant to subsection 12 or any other provision of law to reopen a claim for benefits pursuant to this section if the original claim for benefits which is to be reopened was filed and accepted in accordance with the provisions of this section; or

(b) To file a claim pursuant to any provision of law other than this section, including, without limitation, NRS 617.440.

~~† 17. As used in this section, “Medicare” means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.†~~

Sec. 4. NRS 617.485 is hereby amended to read as follows:

617.485 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, if an employee has hepatitis, the disease is conclusively presumed to have arisen out of and in the course of his or her employment if the employee has been ~~continuously~~ employed for 5 years or more ~~as a police officer,~~ **in a full-time continuous, uninterrupted and salaried occupation as a police officer,** firefighter or emergency medical attendant in this State before the date of any temporary or permanent disability or death resulting from the hepatitis.

2. Compensation awarded to a police officer, firefighter or emergency medical attendant, or to the dependents of such a person, for hepatitis pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

3. A police officer, salaried firefighter or emergency medical attendant shall:

(a) Submit to a blood test to screen for hepatitis C upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment.

(b) Submit to a blood test to screen for hepatitis A and hepatitis B upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment, except that a police officer, salaried firefighter or emergency medical attendant is not required to submit to a blood test to screen for hepatitis A and hepatitis B on an annual basis during his or her employment if he or she has been vaccinated for hepatitis A and hepatitis B upon employment or at other medically appropriate times during his or her employment. Each employer shall provide a police officer, salaried firefighter or emergency medical attendant with the opportunity to be vaccinated for hepatitis A and hepatitis B upon employment and at other medically appropriate times during his or her employment.

4. All blood tests required pursuant to this section and all vaccinations provided pursuant to this section must be paid for by the employer.

5. The provisions of this section:

(a) Except as otherwise provided in paragraph (b), do not apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis upon employment.

(b) Apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis upon employment if, during the employment or within 1 year after the last day of the employment, he or she is diagnosed with a different strain of hepatitis.

(c) Apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis after the termination of the employment if the diagnosis is made within 1 year after the last day of the employment.

6. A police officer, firefighter or emergency medical attendant who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a police officer, firefighter or emergency medical attendant,
 ↪ may elect to receive the benefits provided pursuant to NRS 616C.440 for a permanent total disability.

~~7. Except as otherwise provided in subsection 8, if a person qualifies for medical benefits pursuant to this section, the person may:~~

~~(a) Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and~~

~~(b) Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.~~

~~8. The provisions of subsection 7 do not apply to a person who:~~

~~(a) Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or~~

~~(b) Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.~~

~~9.~~ As used in this section:

(a) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS, whose primary duties of employment are the provision of emergency medical services.

(b) "Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.

(c) ~~“Medicare” means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.~~

~~(d)~~ “Police officer” means a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer.

Sec. 5. NRS 617.487 is hereby amended to read as follows:

617.487 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, if an employee has hepatitis, the disease is conclusively presumed to have arisen out of and in the course of his or her employment if the employee has been ~~continuously~~ employed for 5 years or more ***in a full-time continuous, uninterrupted and salaried occupation*** as a police officer or a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer in this State before the date of any temporary or permanent disability or death resulting from the hepatitis.

2. Compensation awarded to a police officer, or to the dependents of a police officer, for hepatitis pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

3. A police officer shall:

(a) Submit to a blood test to screen for hepatitis C upon employment and upon the commencement of coverage.

(b) If the employer of the police officer provides screening for hepatitis C for police officers on an annual basis, submit to a blood test to screen for hepatitis C thereafter on an annual basis during his or her employment.

(c) If the employer of the police officer provides screening for hepatitis A and hepatitis B for police officers, submit to a blood test to screen for hepatitis A and hepatitis B upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment, except that a police officer is not required to submit to a blood test to screen for hepatitis A and hepatitis B on an annual basis during his or her employment if he or she has been vaccinated for hepatitis A and hepatitis B upon employment or at other medically appropriate times during his or her employment. Each employer shall provide a police officer with the opportunity to be vaccinated for hepatitis A and hepatitis B upon employment and at other medically appropriate times during his or her employment.

4. All blood tests required pursuant to this section and all vaccinations provided pursuant to this section must be paid for by the employer.

5. The provisions of this section:

(a) Except as otherwise provided in paragraph (b), do not apply to a police officer who is diagnosed with hepatitis upon employment.

(b) Apply to a police officer who is diagnosed with hepatitis upon employment if, during the employment or within 1 year after the last day of the employment, the police officer is diagnosed with a different strain of hepatitis.

(c) Apply to a police officer who is diagnosed with hepatitis after the termination of the employment if the diagnosis is made within 1 year after the last day of the employment.

6. A police officer who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a police officer,

↪ may elect to receive the benefits provided pursuant to NRS 616C.440 for a permanent total disability.

7. ~~Except as otherwise provided in subsection 8, if a person qualifies for medical benefits pursuant to this section, the person may:~~

~~(a) Begin receiving those medical benefits only if, at the time the person is to begin receiving those medical benefits, the person is not eligible for Medicare or any successor program; and~~

~~(b) Continue receiving those medical benefits only until the person is eligible for Medicare or any successor program.~~

8. ~~The provisions of subsection 7 do not apply to a person who:~~

~~(a) Filed a claim for benefits pursuant to this section that was filed and accepted while the person was employed in the position through which the person qualified for the benefits; or~~

~~(b) Ceased employment in the position through which the person qualified for benefits pursuant to this section if at the time the person ceased such employment the person had not reached the required age to retire pursuant to NRS 286.510 without a reduction pursuant to subsection 6 of NRS 286.510.~~

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

(a) "Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.

(b) ~~"Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1305 et seq.~~

~~(c)~~ "Police officer" means any police officer other than a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer.

Sec. 6. The amendatory provisions of this act apply only to a person hired on or after July 1, 2011.

Sec. 7. This act becomes effective on July 1, 2011.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Senate Bill No. 309.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 683.

SUMMARY—Authorizes a person to remove from his or her property ~~an~~ animal livestock for which he or she has, by contract, provided care and shelter under certain circumstances. (BDR 50-703)

AN ACT relating to ~~animals~~ livestock; authorizing a person to remove from his or her property ~~an animal~~ livestock for which he or she has, by contract, provided care and shelter under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the care of and prevention of cruelty to animals. (NRS 574.050-574.510) This bill provides that: (1) if a person enters into a contract to provide care and shelter for ~~an animal~~ livestock; (2) the person gives 30 days' notice of the termination of the contract and requests the removal of the ~~animal~~ livestock from his or her property at the end of the contract; and (3) the owner fails to remove the ~~animal~~ livestock from the person's property at the end of that contract, the person providing care and shelter may remove the ~~animal~~ livestock from his or her property in several ways. However, before the person may remove the ~~animal~~ livestock, he or she must provide written notification to the owner by certified mail of his or her intention to remove the ~~animal~~ livestock if the owner fails to remove the ~~animal~~ livestock from the person's property. If the owner fails to remove the ~~animal~~ livestock by the time provided for in the notice, the ~~animal~~ livestock will be deemed abandoned, and the person may: (1) sell the ~~animal~~ livestock; (2) give the ~~animal~~ livestock to a society for the prevention of cruelty to animals; (3) return the ~~animal~~ livestock to the owner; (4) transfer the ~~animal~~ livestock to another facility that is willing to provide care and shelter for the ~~animal~~ livestock; or (5) bring an action in court to require the owner to remove the ~~animal~~ livestock from the person's property. The owner of the ~~animal~~ livestock is liable for any reasonable and actual costs incurred by the person in removing the ~~animal~~ livestock from his or her property.

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

Section 1. Chapter 575 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who enters into a contract with an owner of ~~an animal~~ livestock to provide care or shelter for the ~~animal~~ livestock on the person's property shall give the owner of the ~~animal~~ livestock at least 30 days' notice before terminating the contract.

2. After receiving the notice, if the owner of the ~~an animal~~ livestock fails to remove the ~~an animal~~ livestock from the property before the termination of the contract, the ~~an animal~~ livestock shall be deemed abandoned and the person providing care or shelter for the ~~an animal~~ livestock may remove the ~~an animal~~ livestock from his or her property as provided in subsection 3 if:

(a) The person notifies the owner of the ~~an animal~~ livestock in writing of the person's intention to remove the ~~an animal~~ livestock from the property if the owner fails to remove ~~the~~ the livestock before the date the contract is terminated; and

(b) Fourteen days have elapsed since the notice was mailed to the owner of the ~~an animal~~ livestock. The notice must be mailed, by certified mail, return receipt requested, to the owner of the ~~an animal~~ livestock at the owner's present address, and if that address is unknown, then at the owner's last known address.

3. If ~~an animal~~ any livestock is deemed abandoned pursuant to subsection 2, a person providing care or shelter for ~~an animal~~ that livestock may:

(a) Sell the ~~an animal~~ livestock;

(b) Give the ~~an animal~~ livestock to a society for the prevention of cruelty to animals;

(c) Return the ~~an animal~~ livestock to the owner at the owner's present address;

(d) Transfer the ~~an animal~~ livestock to another facility which is able to provide care and shelter for the ~~an animal~~ livestock; or

(e) Bring a civil action in a court of competent jurisdiction to require the owner to remove the ~~an animal~~ livestock from the person's property.

4. If the owner of the ~~an animal~~ livestock fails to remove the ~~an animal~~ livestock pursuant to subsection 2, the person providing care and shelter for the ~~an animal~~ livestock may charge and collect any reasonable and actual costs he or she incurs in removing the ~~an animal~~ livestock pursuant to subsection 3.

5. ~~The~~ Except as otherwise provided in subsection 6, the provisions of this section may be varied by agreement, and the rights conferred by this section may be waived.

6. The remedies provided for in this section are the exclusive remedies for an action brought pursuant to this section. If a person pursues a remedy not provided for in this section including, without limitation, a civil action for breach of contract or trespass, the provisions of this section do not apply, and the remedies provided for in this section are not available.

7. As used in this section, "livestock" means:

(a) All cattle or animals of the bovine species;

(b) All horses, mules, burros and asses or animals of the equine species;

(c) All swine or animals of the porcine species;

(d) All goats or animals of the caprine species; and

(e) All sheep or animals of the ovine species.

Assemblywoman Carlton moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 18, 19, 30, 37, 40, 59, 77, 88, 94, 97, 99, 102, 112, 125, 128, 132, 136, 142, 143, 149, 152, 159, 182, 184, 186, 190, 191, 194, 200, 201, 205, 210, 213, 215, 221, 223, 226, 234, 236, 237, 238, 246, 259, 267, 273, 277, 292, 293, 294, 299, 300, 314, 315, 317, 323, 329, 339, 361, 365, 405, 411, 414, 417, 420, 430, 436, 444, 445, 450, 481; Senate Joint Resolution 3 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 314 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Conklin moved that the action whereby Senate Bill No. 314 was rereferred to the Committee on Ways and Means be rescinded.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 314 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 19, 29, 109, 138, 154, 170, 227, 237, 246, 248, 249, 253, 254, 276, 280, 290, 292, 306, 313, 317, 318, 368, 373, 395, 396, 420, 451, 454, 455, 472, 480, 481, 483, 533, 534, 535, 544, 564, 566; Assembly Joint Resolution No. 1; Senate Bills Nos. 6, 10, 12, 13, 15, 17, 21, 25, 33, 38, 45, 58, 63, 66, 67, 79, 109, 117, 137, 157, 167, 196, 209, 328, 331, 353, 368, 387, 390, 441, 495; Senate Joint Resolution No. 4.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Benitez-Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Robert Green.

On request of Assemblyman Daly, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Greenbrae Elementary School: Alan Ablao Jr., Maggie Arroyo, Sydney Breen, Trevor Campbell, Justin Michael Caunca, Alfredo Cortes Recendiz, Justin Depoali, Tyler Eisner, Matti Fredell, Jacqueline Garcia Garcia, Dominic Lange, Ysabella Lindsay, Yadhira Lopez-Ortega, Alexa Maldonado, Liliana Marin Gonzalez,

Brayan Parra, Darlin Perez, Rene Perez, Aleki Po'oi, Natalie Ramirez, Stephanie Ramirez, Janely Ramos, Jocelyn Ramos, Adrian Rios, Conseuelo Santana, Bernardo Simental Silva, Matthew Smithee, Andy Solano, Daitrale Steele, Daniel Torres, Chai Verdun, Joshua Advincula, Emily Aguilar, Osvaldo Abla, Maria Andrade, Alberto Arce-Mejorado, Jose Calvillo, Giovanni Cornejo Rodriguez, Citlalli Flores Villa, Cristian Galvan Leon, Savanah Garcia, Cesar Garcia Arellano, Khala Gonzalez, Brian Hernandez, Dianali Hernandez, Alex Holland, Vanessa Martinez Florez, Markina Metoyer, Gissele Mora, Miguel Murrillo Medrano, Alondra Parra, Rayshawn Planas, Vincent Po'oi, Natalie Ramirez, Adriana Rios Murillo, Damaji' Roberts, Jennifer Torres, Adriana Toth, Johana Vasquez, Josue Velazquez, Judy Wells, Nickki Hertzler, Olivia Garcia, Erin Lange, Heidi Charpentier, Sharon Ruth Advincula, Teresa Villa Escobar, and Jose Torres.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Danielle Barraza.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to William C. Bell, Marva Hammons, Paul Beuhler, and Antoinette Malveaux.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Jack Francis Burns II, Riana Durrett, John Burns, Genie Ohrenschall Daykin, and Frank Daykin.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Lauren Denison, Bridgette Zunino, and Jayann Sepich.

Assemblyman Conklin moved that the Assembly adjourn until Saturday, May 28, 2011, at 10 a.m.

Motion carried.

Assembly adjourned at 5:53 p.m.

Approved:

JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly