THE ONE HUNDRED AND EIGHTH DAY

CARSON CITY (Wednesday), May 23, 2007

Senate called to order at 11:52 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Alan Dorway.

As we pray, draw our hearts, guide our minds, fill our imaginations, control our wills that we may be wholly Yours and dedicated to Your call. Bless all in the Senate, today, that as they do their work, they would find joy and fulfillment in their service. Grant us all peace that everything we do would always be to Your glory and for the welfare of all Your people.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 41, 145, 178, 195, 249, 304, 375, 385, 396, 404, 424, 431, 468, 478, 496, 592, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Mr. President:

Also, your Committee on Finance, to which were referred Senate Bill No. 253; Assembly Bill No. 165, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 406, 439, 463, 558, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

Mr. President:

Your Committee on Transportation and Homeland Security, to which were referred Assembly Bills Nos. 51, 497, 600, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 66, 74, 99; Assembly Bills Nos. 275, 612, 615, 618.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 128, 182, 203, 206, 246, 354, 440, 508, 579, 616.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 10, Amendment No. 794; Senate Bill No. 16, Amendment No. 795; Senate Bill No. 110, Amendment No. 819; Senate Bill No. 112, Amendment No. 919; Senate Bill No. 142, Amendment No. 905, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 46.

LUCINDA BENJAMIN
Assistant Chief Clerk of the Assembly

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:01 p.m.

SENATE IN SESSION

At 12:06 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that for the remainder of this legislative Session, that all bills and resolutions reported out of committee with amendments be immediately placed on the appropriate reading files on the next agenda, time permitting.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that for the remainder of this legislative Session, that all necessary rules be suspended, reading so far had considered second reading, rules further suspended, and that all Senate bills and joint resolutions reported out of committee with a "do pass" (without amendments) be declared emergency measures under the Constitution and be immediately placed on third reading and final passage on the next agenda, time permitting.

Remarks by Senators Raggio and Coffin.

Motion carried.

Senator Raggio moved that for the remainder of the legislative Session, all necessary rules be suspended, and that all Senate measures be immediately transmitted to the Assembly.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that for the remainder of this legislative Session, all necessary rules be suspended, and that all Senate concurrent resolutions just reported out of committee immediately placed on the resolution file, next agenda, time permitting.

Remarks by Senator Raggio.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 128.

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

Motion carried.

Assembly Bill No. 182.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 203.

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

Motion carried.

Assembly Bill No. 206.

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

Motion carried.

Assembly Bill No. 246.

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

Motion carried.

Assembly Bill No. 275.

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

Motion carried.

Assembly Bill No. 354.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 440.

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

Motion carried.

Assembly Bill No. 508.

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

Motion carried.

Assembly Bill No. 579.

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

Motion carried.

Assembly Bill No. 612.

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

Motion carried.

Assembly Bill No. 615.

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

Motion carried.

Assembly Bill No. 616.

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

Motion carried.

Assembly Bill No. 618.

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

Motion carried.

Senator Nolan moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:16 p.m.

SENATE IN SESSION

At 12:17 p.m.

President Krolicki presiding.

Quorum present.

Senator Lee moved that Assembly Bill No. 70 be taken from the Secretary's desk and placed on the General File.

Remarks by Senator Lee.

Motion lost on a division of the house.

SECOND READING AND AMENDMENT

Senate Bill No. 186.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 778.

"SUMMARY—Makes an appropriation to the Office of the Governor to purchase replacement computer hardware and software and ~~[to purchase]~~ office furniture and machines. (BDR S-1202)"

"AN ACT making an appropriation to the Office of the Governor to purchase replacement computer hardware and software and ~~[to purchase]~~ office furniture and machines; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Office of the Governor the sum of ~~[$50,000]~~ *$32,405* to purchase replacement computer hardware and software *, surge protectors, printers,* ~~[and to purchase]~~ office furniture, ~~[a projector and]~~ a fax machine *, a scanner and two auto pens*.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. This act becomes effective upon passage and approval.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 570.

Bill read second time and ordered to third reading.

Assembly Bill No. 52.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 760.

"SUMMARY—Makes various changes relating to domestic relations. (BDR 11-421)"

"AN ACT relating to domestic relations; codifying certain common law factors that a court must consider when determining alimony; *revising the provisions governing the reporting of information concerning investigations of domestic violence;* requiring the Director of the Department of Public Safety to submit an annual report concerning temporary and extended orders for protection against domestic violence to the Legislature; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing case law in Nevada, a court determining whether alimony should be awarded and the appropriate amount of alimony is required to consider several relevant factors including: (1) the financial condition of the

parties; (2) the nature and value of their respective property; (3) the contribution of each party to any property held by both parties as tenants by the entirety; (4) the duration of the marriage; and (5) the income, earning capacity, age and health of each party. (*Buchanan v. Buchanan*, 90 Nev. 209, 215 (1974)) Section 1 of this bill codifies those factors as well as factors from subsequent case law so that a court must consider those factors when determining alimony. (*Buchanan*, 90 Nev. at 215; *Sprenger v. Sprenger*, 110 Nev. 855, 859 (1994); *Rodriguez v. Rodriguez*, 116 Nev. 993, 999 (2000))

Existing law sets forth provisions governing the reporting of information concerning investigations of domestic violence. (NRS 171.1227) Section 4.5 of this bill revises the manner in which information concerning an investigation of domestic violence must be forwarded to the Central Repository for Nevada Records of Criminal History. Section 4.5 also requires the Director of the Department of Public Safety to prescribe the form in which such information must be supplied and lists additional information that must be contained in the form.

Section 5 of this bill requires the Director of the Department of Public Safety to submit a written report concerning the temporary and extended orders for protection against domestic violence issued in this State to the Director of the Legislative Counsel Bureau which includes the total number of temporary and extended orders granted, the number of grants of temporary custody that are included in such temporary and extended orders, the number of such orders that are issued to women and the number of such orders that are issued to men.

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

Section 1. NRS 125.150 is hereby amended to read as follows:

125.150 Except as otherwise provided in NRS 125.155 and unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS:

1. In granting a divorce, the court:

(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and

(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the

reimbursement of that party for his contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

(a) The intention of the parties in placing the property in joint tenancy;

(b) The length of the marriage; and

(c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

➥ As used in this subsection, "contribution" includes , *without limitation,* a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney's fee to either party to an action for divorce if those fees are in issue under the pleadings.

4. In granting a divorce, the court may also set apart such portion of the husband's separate property for the wife's support, the wife's separate property for the husband's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

5. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.

6. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed

circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony he has been ordered to pay.

8. *In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:*

(a) The financial condition of each spouse;

(b) The nature and value of the respective property of each spouse;

(c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;

(d) The duration of the marriage;

(e) The income, earning capacity, age and health of each spouse;

(f) The standard of living during the marriage;

(g) The career before the marriage of the spouse who would receive the alimony;

(h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;

(i) The contribution of either spouse as homemaker;

(j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and

(k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

9. In granting a divorce , the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:

(a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and

(b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

~~[9.]~~ *10.* If the court determines that alimony should be awarded pursuant to the provisions of subsection ~~[8.]~~ *9:*

(a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.

(b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.

(c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

(1) Testing of the recipient's skills relating to a job, career or profession;

(2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;

(3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;

(4) Subsidization of an employer's costs incurred in training the recipient;

(5) Assisting the recipient to search for a job; or

(6) Payment of the costs of tuition, books and fees for:

(I) The equivalent of a high school diploma;

(II) College courses which are directly applicable to the recipient's goals for his career; or

(III) Courses of training in skills desirable for employment.

~~[10.]~~ *11.* For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in NRS 125B.070.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.5. *NRS 171.1227 is hereby amended to read as follows:*

171.1227 1. If a peace officer investigates an act that constitutes domestic violence pursuant to NRS 33.018, he shall prepare and submit a written report of his investigation to his supervisor or to another person designated by his supervisor, regardless of whether the peace officer makes an arrest.

2. If the peace officer investigates a mutual battery that constitutes domestic violence pursuant to NRS 33.018 and finds that one of the persons involved was the primary physical aggressor, he shall include in his report:

(a) The name of the person who was the primary physical aggressor; and

(b) A description of the evidence which supports his finding.

3. If the peace officer does not make an arrest, he shall include in his report the reason he did not do so.

4. ~~[A copy of the]~~ *The information contained in a* report *made pursuant to subsections 1 and 2* must be ~~[forwarded immediately]~~ *:*

(a) Aggregated each month; and

(b) Forwarded by each jurisdiction to the Central Repository for Nevada Records of Criminal History ~~[.]~~ *not later than the 15th day of the following month.*

5. The Director of the Department of Public Safety shall prescribe the form on which the information described in subsection 4 must be reported to the Central Repository. In addition to the information required pursuant to subsections 1 and 2, the form must also require the inclusion of the following information from each report:

(a) The gender, age and race of the persons involved;

(b) The relationship of the persons involved;

(c) The date and time of day of the offense;

(d) The number of children present, if any, at the time of the offense;

(e) Whether or not an order for protection against domestic violence was in effect at the time of the offense;

(f) Whether or not any weapons were used during the commission of the offense;

(g) Whether or not any person required medical attention;

(h) Whether or not any person was given a domestic violence card that contains information about appropriate counseling or other supportive services available in the community in which that person resides;

(i) Whether or not the primary physical aggressor, if identified, was arrested and, if not, any mitigating circumstances explaining why an arrest was not made; and

(j) Whether or not any other person was arrested.

Sec. 5. NRS 179A.350 is hereby amended to read as follows:

179A.350 1. The Repository for Information Concerning Orders for Protection Against Domestic Violence is hereby created within the Central Repository.

2. Except as otherwise provided in subsection ~~[4,]~~ *6,* the Repository for Information Concerning Orders for Protection Against Domestic Violence must contain a complete and systematic record of all temporary and extended orders for protection against domestic violence issued or registered in the State of Nevada, in accordance with regulations adopted by the Director of the Department, including, without limitation, any information received pursuant to NRS 33.095. Information received by the Central Repository pursuant to NRS 33.095 must be entered in the Repository for Information Concerning Orders for Protection Against Domestic Violence not later than 8 hours after it is received by the Central Repository.

3. The information in the Repository for Information Concerning Orders for Protection Against Domestic Violence must be accessible by computer at all times to each agency of criminal justice.

4. *On or before February 15 of each year, the Director of the Department shall submit to the Director of the Legislative Counsel Bureau a written report concerning all temporary and extended orders for protection against domestic violence issued pursuant to NRS 33.020 during the previous calendar year that were transmitted to the Repository for Information Concerning Orders for Protection Against Domestic Violence. The report must include, without limitation, information for each court that issues temporary or extended orders for protection against domestic violence concerning:*

(a) The total number of temporary and extended orders that were granted by the court pursuant to NRS 33.020 during the calendar year to which the report pertains;

(b) The number of temporary and extended orders that were granted to women;

(c) The number of temporary and extended orders that were granted to men;

(d) The number of temporary and extended orders that were vacated or expired;

(e) The number of temporary orders that included a grant of temporary custody of a minor child; and

(f) The number of temporary and extended orders that were served on the adverse party.

5. The information provided pursuant to subsection 4 must include only aggregate information for statistical purposes and must exclude any identifying information relating to a particular person.

6. The Repository for Information Concerning Orders for Protection Against Domestic Violence must not contain any information concerning an event that occurred before October 1, 1998.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Assembly Bill No. 52 be placed on the second agenda on the next legislative day after return from reprint.

Remarks by Senator Washington.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 53.

Bill read second time.

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

Amendment No. 733.

"SUMMARY—Makes various changes regarding ~~[licenses for and disciplinary action against]~~ administrators of facilities for long-term care. (BDR 54-570)"

"AN ACT relating to administrators of facilities for long-term care; ~~[providing for the reinstatement of expired licenses for administrators of a residential facility for groups or nursing facility administrators; requiring the payment of a fee for reinstatement; requiring the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care to make reasonable efforts to notify licensees of license renewal requirements and license expirations;]~~ revising provisions governing the authority of the *Nevada State* Board *of Examiners for Administrators of Facilities for Long-Term Care* to take disciplinary action against a person who holds a license; authorizing the Board to proceed with certain investigations, actions

or disciplinary proceedings against persons with expired licenses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensing of administrators of facilities for long-term care. (NRS 654.140-654.180) ~~[The license of a nursing facility administrator or an administrator of a residential facility for groups expires 2 years after it was issued unless it is renewed. (NRS 654.170) Section 2 of this bill requires the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care to reinstate a license that expired if the person who held the license pays a fee and fulfills certain other requirements. Section 2 also requires the Board to make reasonable efforts to notify a person who holds a license that renewal of a license is coming due and to notify a person if the license held by the person expired.]~~

Under existing law, the *Nevada State* Board *of Examiners for Administrators of Facilities for Long-Term Care* may impose an administrative fine of not more than $2,500 on a person who holds a license and may suspend or revoke a license for various violations. (NRS 654.190) Section 3 of this bill increases the maximum amount of the administrative fine that the Board may impose to not more than $5,000 and authorizes the Board to recover reasonable investigative fees and costs, to place conditions on a license and to place a person who holds a license on probation. Section 3 also adds violations which would subject a person who holds a license to disciplinary action by the Board and provides that the expiration of a license or the voluntary surrender of a license does not deprive the Board of jurisdiction to continue disciplinary proceedings against the person who held the license.

Existing law authorizes the reinstatement of a suspended license of an administrator of a residential facility for groups if a majority of the members of the Board vote in favor of the reinstatement. (NRS 654.195) Section 4 of this bill additionally authorizes reinstatement of the license if the person who held the license reapplies for the license and the Board determines that the person meets the requirements for the issuance of a license.

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

Section 1. NRS 654.028 is hereby amended to read as follows:

654.028 "Nursing facility administrator" means a person who manages, supervises and is in general administrative charge of a facility for skilled nursing or facility for intermediate care ~~[.]~~ *of patients.*

Sec. 2. ~~[NRS 654.170 is hereby amended to read as follows:~~

~~654.170 1. The Board shall issue a numbered license, in such form as it may prescribe, to each applicant who meets the requirements of NRS 654.150 or 654.155 and shall affix its official seal to the license.~~

~~2. Each license issued by the Board pursuant to this chapter expires 2 years after the last day of the calendar month in which it was issued and may be renewed on or before that date biennially.~~

~~3. Any licensed nursing facility administrator or administrator of a residential facility for groups may renew his license by applying for renewal in the manner prescribed by the Board, paying the renewal fee fixed by the Board and submitting all information required to complete the renewal.~~

~~4. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with:~~

~~(a) The requirements for continuing education adopted by the Board; and~~

~~(b) The duties of the administrator set forth in NRS 449.0357.~~

~~*5. The Board shall reinstate a license which has expired pursuant to subsection 2 if:*~~

~~*(a) Not later than 2 years after the date the license expired, the person who held the license:*~~

~~*(1) Applies to the Board for the reinstatement of the license in the manner prescribed by the Board;*~~

~~*(2) Pays to the Board a fee for the reinstatement of the license equal to twice the amount of the renewal fee fixed by the Board pursuant to subsection 3; and*~~

~~*(3) Submits all information required by the Board pursuant to subsection 3 for renewal; and*~~

~~*(b) The Board determines that the person meets the requirements of NRS 654.150 or 654.155.*~~

~~*6. The Board shall make reasonable efforts to notify each person who holds a license:*~~

~~*(a) Before the license expires pursuant to subsection 2, that if the person does not submit the renewal fee and all the information required to complete the renewal, the license will expire pursuant to subsection 2; and*~~

~~*(b) That if the person did not pay the renewal fee and submit all the information required to complete the renewal before the license expired pursuant to subsection 2, the license has expired.]*~~ *(Deleted by amendment.)*

Sec. 3. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than ~~[$2,500 on and suspend or]~~ *$5,000 on, recover reasonable investigative fees and costs incurred from, suspend,* revoke *or place conditions on* the license of *, and place on probation* any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups ~~[.]~~ *, including, without limitation, a code of ethics.*

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing not less than 10 days before the date of the hearing.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 4. NRS 654.195 is hereby amended to read as follows:

654.195 1. Except as otherwise provided in subsection 2, the Board may reinstate the license of an administrator of a residential facility for groups that has been suspended by the Board if ~~[a]~~ *:*

(a) A majority of the members of the Board vote in favor of the reinstatement ~~[.]~~ *; or*

(b) The person who held the license reapplies for a license as an administrator of a residential facility for groups pursuant to NRS 654.140 and the Board determines that the person meets the requirements of NRS 654.155.

2. The Board may reinstate a license of an administrator of a residential facility for groups that has been suspended pursuant to NRS 425.540 only if the holder of the license complies with the requirements for reinstatement set forth in NRS 654.193.

3. In a manner consistent with the provisions of chapter 622A of NRS, the Board may reinstate the license of an administrator of a residential facility for groups that has been revoked by the Board if all of the members of the Board vote in favor of reinstatement.

Sec. 5. NRS 654.195 is hereby amended to read as follows:

654.195 1. The Board may reinstate the license of an administrator of a residential facility for groups that has been suspended by the Board if ~~[a]~~ *:*

(a) A majority of the members of the Board vote in favor of the reinstatement ~~[.]~~ *; or*

(b) The person who held the license reapplies for a license as an administrator of a residential facility for groups pursuant to NRS 654.140 and the Board determines that the person meets the requirements of NRS 654.155.

2. In a manner consistent with the provisions of chapter 622A of NRS, the Board may reinstate the license of an administrator of a residential facility for groups that has been revoked by the Board if all of the members of the Board vote in favor of reinstatement.

Sec. 6. 1. This section and sections 1 ~~[, 2 and 3]~~ *to 4, inclusive,* of this act become effective upon passage and approval.

2. Section ~~[3]~~ *4* of this act expires by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Section ~~[4]~~ 5 of this act becomes effective 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Beers moved that Assembly Bill No. 63 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Beers.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 54.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 835.

"SUMMARY— ~~[Requires applicants for a]~~ *Makes various changes with respect to* special license ~~[plate to pay an application fee which is refundable in certain circumstances.]~~ *plates.* (BDR 43-740)"

"AN ACT relating to motor vehicles; requiring an applicant requesting the design, preparation and issuance of a special license plate to ~~[pay an application fee;]~~ *post a surety bond with the Department of Motor Vehicles;* providing for the ~~[refund]~~ *release* of the ~~[application fee]~~ *surety bond* in certain circumstances; *requiring the Commission on Special License Plates to approve or disapprove changes in the distribution of additional fees generated by special license plates;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ *Section 1 of this* bill requires a person submitting an application to the Department of Motor Vehicles for the design, preparation and issuance of a special license plate to ~~[submit a fee]~~ *post with the Department a surety bond* in the amount of $5,000 ~~[with]~~ *to accompany* the application. (NRS 482.367002) The Department is required to ~~[refund the fee to the applicant]~~ *release the bond* if the Department or the Commission on Special License Plates decides not to issue the plate, or after at least 1,000 plates are issued.

Section 2 of this bill provides that the Commission shall: (1) approve or disapprove any proposed change in the distribution of money received in the form of additional fees that are charged in connection with the issuance or renewal of a special license plate; and (2) if it approves such a change and determines that legislation is required to carry out the change, request the assistance of the Legislative Counsel in the preparation of a bill draft. (NRS 482.367004)

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

Section 1. NRS 482.367002 is hereby amended to read as follows:

482.367002 1. A person may request that the Department design, prepare and issue a special license plate by submitting an application to the Department.

2. An application submitted to the Department pursuant to subsection 1:

(a) Must be on a form prescribed and furnished by the Department;

(b) ~~[Must be accompanied by a petition containing the signatures of at least 1,000 persons who wish to obtain the special license plate;~~

~~(c)]~~ Must specify whether the special license plate being requested is intended to generate financial support for a particular cause or charitable organization and, if so, the name of the cause or charitable organization; ~~[and]~~

~~[(d)]~~ *(c)* May be accompanied by suggestions for the design of and colors to be used in the special license plate ~~[.]~~ *; and*

(d) Must be accompanied by a ~~[fee]~~ surety bond posted with the Department in the amount of $5,000.

3. The Department may design and prepare a special license plate requested pursuant to subsection 1 if:

(a) The Department determines that the application for that plate complies with subsection 2; and

(b) The Commission on Special License Plates approves the application for that plate pursuant to subsection 5 of NRS 482.367004.

4. Except as otherwise provided in NRS 482.367008, the Department may issue a special license plate that:

(a) The Department has designed and prepared pursuant to this section;

(b) The Commission on Special License Plates has approved for issuance pursuant to subsection 5 of NRS 482.367004; and

(c) Complies with the requirements of subsection 8 of NRS 482.270,

➥ for any passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with a special license plate issued pursuant to this section if that person pays the fees for personalized prestige license plates in addition to the fees for the special license plate.

5. ~~*[Except as otherwise provided in subsection 6, the application fee submitted pursuant to subsection 2 must be deposited in the Revolving Account for the Issuance of Special License Plates created pursuant to NRS 482.1805.*~~

~~*6.]*~~ *The Department must promptly* ~~*[refund the application fee submitted]*~~ *release the surety bond posted pursuant to subsection 2:*

(a) If the Department or the Commission on Special License Plates determines not to issue the special license plate; or

(b) If it is determined that at least 1,000 special license plates have been issued pursuant to the assessment of the viability of the design of the special license plate conducted pursuant to NRS 482.367008.

~~*[7.]*~~ *6.* If, during a registration year, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle that meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

Sec. 2. NRS 482.367004 is hereby amended to read as follows:

482.367004 1. There is hereby created the Commission on Special License Plates consisting of five Legislators and three nonvoting members as follows:

(a) Five Legislators appointed by the Legislative Commission:

(1) One of whom is the Legislator who served as the Chairman of the Assembly Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in his place in his absence. The alternate must be another Legislator who also served on the Assembly Standing Committee on Transportation during the most recent legislative session.

(2) One of whom is the Legislator who served as the Chairman of the Senate Standing Committee on Transportation during the most recent legislative session. That Legislator may designate an alternate to serve in his place in his absence. The alternate must be another Legislator who also served on the Senate Standing Committee on Transportation during the most recent legislative session.

(b) Three nonvoting members consisting of:

(1) The Director of the Department of Motor Vehicles, or his designee.

(2) The Director of the Department of Public Safety, or his designee.

(3) The Director of the Department of Cultural Affairs, or his designee.

2. Each member of the Commission appointed pursuant to paragraph (a) of subsection 1 serves a term of 2 years, commencing on July 1 of each odd-numbered year. A vacancy on the Commission must be filled in the same manner as the original appointment.

3. Members of the Commission serve without salary or compensation for their travel or per diem expenses.

4. The Director of the Legislative Counsel Bureau shall provide administrative support to the Commission.

5. The Commission shall approve or disapprove:

(a) Applications for the design, preparation and issuance of special license plates that are submitted to the Department pursuant to subsection 1 of NRS 482.367002; and

(b) The issuance by the Department of special license plates that have been designed and prepared pursuant to NRS 482.367002.

➥ In determining whether to approve such an application or issuance, the Commission shall consider, without limitation, whether it would be appropriate and feasible for the Department to, as applicable, design, prepare or issue the particular special license plate.

6. The Commission shall:

(a) Approve or disapprove any proposed change in the distribution of money received in the form of additional fees. As used in this paragraph, "additional fees" means the fees that are charged in connection with the issuance or renewal of a special license plate for the benefit of a particular cause, fund or charitable organization. The term does not include registration and license fees or governmental services taxes.

(b) If it approves a proposed change pursuant to paragraph (a) and determines that legislation is required to carry out the change, request the assistance of the Legislative Counsel in the preparation of a bill draft to carry out the change.

~~[Sec. 2.]~~ *Sec. 3.* This act becomes effective on July 1, 2007.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 64.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 827.

"SUMMARY—Makes various changes concerning the penalties imposed by a court when a defendant fails to properly secure a child in a child restraint system in a vehicle. (BDR 43-268)"

"AN ACT relating to traffic laws; making various changes concerning the penalties imposed by a court when a defendant fails to properly secure a child in a child restraint system in a vehicle; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a person who transports a child who is less than 6 years of age and who weighs 60 pounds or less to secure the child in a child restraint system. A court is required to order a defendant who did not comply with that requirement to complete a program of training in the installation and use of child restraint systems, unless the defendant is not a resident of the State of Nevada. The court is further required to impose a fine or require the defendant to perform community service, but may waive a portion of the fine or community service if the program of training certifies to the court that the defendant completed the program of training. This bill deletes the requirement that a court order a defendant to undergo a program of training and requires the court to provide the defendant with a referral list of available programs of training. This bill also increases the amount of the fine or hours of community service a court may impose for failing to properly secure the child in a child restraint system. Further, for a first offense, a defendant may have the fine or hours of community service waived if he successfully completes a program of training recommended by the court and presents proof of completion of the training to the court. For a second offense, a defendant may have the fine or hours of community service reduced by half if he *did not have the fine or hours of community service waived for his first offense and he* successfully completes a program of training recommended by the court and presents proof of completion of the training to the court.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 484.474 is hereby amended to read as follows:

484.474 1. Except as otherwise provided in subsection 7, any person who is transporting a child who is less than 6 years of age and who weighs 60 pounds or less in a motor vehicle operated in this State which is equipped to carry passengers shall secure the child in a child restraint system which:

(a) Has been approved by the United States Department of Transportation in accordance with the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. Part 571;

(b) Is appropriate for the size and weight of the child; and

(c) Is installed within and attached safely and securely to the motor vehicle:

(1) In accordance with the instructions for installation and attachment provided by the manufacturer of the child restraint system; or

(2) In another manner that is approved by the National Highway Traffic Safety Administration.

2. If a defendant pleads or is found guilty of violating the provisions of subsection 1, the court shall:

(a) ~~[In addition to any other penalty imposed by law, order the defendant to complete a program of training conducted by a person or agency approved by the Department of Public Safety in the installation and use of child restraint systems, except that the court shall waive the requirements of this paragraph if the defendant is not a resident of the State of Nevada; and~~

~~(b) Except as otherwise provided in this paragraph, order the defendant to pay a fine of not less than $50 nor more than $500, or order the defendant to perform not less than 8 hours nor more than 50 hours of community service. The court may:~~

~~(1) For a first offense by a defendant who completes a program of training described in paragraph (a), waive any amount of the fine or any amount of the community service; and~~

~~(2) For a second or subsequent offense by a defendant who completes a program of training described in paragraph (a), waive any amount of the fine in excess of $50 or any amount of the community service in excess of 8 hours,~~

~~➥ if the person or agency which provided the program of training to the defendant certifies to the court that the defendant has completed the program of training required by paragraph (a), has paid the fee, if any, established for the program pursuant to subsection 4 and has presented for inspection by the person or agency an installed child restraint system that satisfies the provisions of subsection 1. The provisions of this paragraph do not authorize the waiver of any fee established by a person or agency pursuant to subsection 4.]~~ *For a first offense, order the defendant to pay a fine of not less than $100 nor more than $500 or order the defendant to perform not less than 10 hours nor more than 50 hours of community service;*

(b) For a second offense, order the defendant to pay a fine of not less than $500 nor more than $1000 or order the defendant to perform not less than 50 hours nor more than 100 hours of community service; and

(c) For a third or subsequent offense, suspend the driver's license of the defendant for not less than 30 days nor more than 180 days.

3. ~~[The]~~ *At the time of sentencing, the* court shall ~~[make available]~~ *provide the defendant with* a list of persons and agencies approved by the Department of Public Safety to conduct programs of training and perform inspections of child restraint systems. The list must include, without limitation, an indication of the fee, if any, established by the person or agency pursuant to subsection 4. *If, within 60 days after sentencing, a defendant provides the court with proof of satisfactory completion of a program of training provided for in this subsection, the court shall:*

(a) If the defendant was sentenced pursuant to paragraph (a) of subsection 2, waive the fine or community service previously imposed; or

(b) If the defendant was sentenced pursuant to paragraph (b) of subsection 2, reduce by one-half the fine or community service previously imposed.

➥ *A defendant is only eligible for a reduction of a fine or community service pursuant to paragraph (b) if he has not had a fine or community service waived pursuant to paragraph (a).*

4. A person or agency approved by the Department of Public Safety to conduct programs of training and perform inspections of child restraint systems may, in cooperation with the Department, establish a fee to be paid by defendants who are ordered to complete a program of training. The amount of the fee, if any:

(a) Must be reasonable; and

(b) May, if a defendant desires to acquire a child restraint system from such a person or agency, include the cost of a child restraint system provided by the person or agency to the defendant.

➥ A program of training may not be operated for profit.

5. For the purposes of NRS 483.473, a violation of this section is not a moving traffic violation.

6. A violation of this section may not be considered:

(a) Negligence in any civil action; or

(b) Negligence or reckless driving for the purposes of NRS 484.377.

7. This section does not apply:

(a) To a person who is transporting a child in a means of public transportation, including a taxi, school bus or emergency vehicle.

(b) When a physician determines that the use of such a child restraint system for the particular child would be impractical or dangerous because of such factors as the child's weight, physical unfitness or medical condition. In this case, the person transporting the child shall carry in the vehicle the signed statement of the physician to that effect.

8. As used in this section, "child restraint system" means any device that is designed for use in a motor vehicle to restrain, seat or position children. The term includes, without limitation:

(a) Booster seats and belt-positioning seats that are designed to elevate or otherwise position a child so as to allow the child to be secured with a safety belt;

(b) Integrated child seats; and

(c) Safety belts that are designed specifically to be adjusted to accommodate children.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

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

Remarks by Senator Nolan.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 67.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 742.

"SUMMARY—Revises provisions governing the control of air pollution. (BDR 40-568)"

"AN ACT relating to air pollution; authorizing the State Department of Conservation and Natural Resources to collect money from the sale of emission credits or allocations; increasing the maximum amount the State Environmental Commission may establish as an administrative fine for certain lesser violations relating to air pollution; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The State Department of Conservation and Natural Resources is designated as the Air Pollution Control Agency of the State for the purposes of the Clean Air Act, insofar as it pertains to state programs. (NRS 445B.135, 445B.205) Section 2 of this bill authorizes the Department to collect money from the sale of emission credits or allocations. Section 1 of this bill makes it a state policy periodically to retire a portion of the emission credits ~~[.]~~ *or allocations.*

The State Environmental Commission is required by law to adopt regulations that set forth a schedule of administrative fines not exceeding $500 for minor violations of certain statutes and regulations relating to the prevention, abatement and control of air pollution. (NRS 445B.640) Section 3 of this bill increases the maximum amount that the Commission may establish for such fines from $500 to $2,000.

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

Section 1. NRS 445B.100 is hereby amended to read as follows:

445B.100 1. It is the public policy of the State of Nevada and the purpose of NRS 445B.100 to 445B.640, inclusive, to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, esthetic and historic values of the State.

2. It is the intent of NRS 445B.100 to 445B.640, inclusive, to:

(a) Require the use of reasonably available methods to prevent, reduce or control air pollution throughout the State of Nevada;

(b) Maintain cooperative programs between the State and its local governments; and

(c) Facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within a single jurisdiction.

3. The quality of air is declared to be affected with the public interest, and NRS 445B.100 to 445B.640, inclusive, are enacted in the exercise of the police power of this State to protect the health, peace, safety and general welfare of its people.

4. It is also the public policy of this State ~~[to]~~ *:*

(a) To provide for the integration of all programs for the prevention of accidents in this State involving chemicals, including, without limitation, accidents involving hazardous air pollutants, highly hazardous chemicals, highly hazardous substances and extremely hazardous substances ~~[.]~~ *; and*

(b) Periodically to retire a portion of the emission credits or allocations specified in NRS 445B.235 that may otherwise be available for ~~[use]~~ banking or for sale pursuant to that section.

Sec. 2. NRS 445B.235 is hereby amended to read as follows:

445B.235 *1.* In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, the Department may ~~[, if it considers it necessary or appropriate:~~

~~1.]~~ *:*

(a) Collect money from the sale of emission credits or allocations.

(b) Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.

~~[2.]~~ *(c)* On behalf of this State, apply for and receive ~~[funds]~~ *money* made available to the State for programs from any private source or from any agency of the Federal Government under the Federal Act. All ~~[moneys]~~ *money* received from any federal agency or private source as provided in this section ~~[shall]~~ *must* be paid into the State Treasury and ~~[shall]~~ *must* be expended, under the direction of the Department, solely for the purpose ~~[or purposes]~~ for which the grant ~~[or grants have]~~ *has* been made.

~~[3.]~~ *(d)* Certify to the appropriate federal authority that facilities are in conformity with the state program and requirements for control of air pollution, or will be in conformity with the state program and requirements for control of air pollution if such facility is constructed and operated in accordance with the application for certification.

~~[4.]~~ *(e)* Develop measures for control of air pollution originating in the State.

2. All money collected by the Department pursuant to paragraph (a) of subsection 1 must be deposited in the State General Fund for credit to the Account for the Management of Air Quality.

3. The ~~[Commission shall, in cooperation with the Department, adopt regulations setting forth the requirements for the sale of emission credits pursuant to paragraph (a) of subsection 1. The regulations must include, without limitation, provisions for public participation in that sale.]~~ Department shall:

(a) Develop proposed regulations establishing requirements for public participation in the determination by the Department of the amount of emission credits or allocations that are available for sale pursuant to paragraph (a) of subsection 1; and

(b) Recommend that the Commission adopt the proposed regulations pursuant to NRS 445B.210.

Sec. 3. NRS 445B.640 is hereby amended to read as follows:

445B.640 1. Except as otherwise provided in subsection 4 and NRS 445C.010 to 445C.120, inclusive, any person who violates any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, or any regulation in force pursuant thereto, other than NRS 445B.570 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than $10,000 per day per offense. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines not exceeding ~~[$500]~~ *$2,000* for lesser violations of any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, or any regulation in force pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, regulations in force pursuant thereto, and orders made pursuant to NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, by injunction or other appropriate remedy, and the Commission or the Director may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

4. Any person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to persons found by the court to be indigent.

5. All administrative fines collected by the Commission pursuant to this section must be deposited in the county school district fund of the county where the violation occurred.

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

Senator Rhoads moved the adoption of the amendment.

Remarks by Senators Rhoads and Titus.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 87.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 761.

"SUMMARY—Requires certain officers and employees of financial institutions to receive training concerning the exploitation of older persons and vulnerable persons and to report the suspected or known exploitation of older persons or vulnerable persons. (BDR 55-157)"

"AN ACT relating to financial institutions; requiring certain financial institutions to provide training to certain officers and employees concerning identifying the suspected exploitation of older persons and vulnerable persons; requiring certain officers and employees who receive such training to report the suspected or known exploitation of an older or vulnerable person; providing for civil penalties for failure to report; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 4-13 of this bill require certain financial institutions to provide training to certain officers and employees concerning the identification and reporting of the exploitation of older persons and vulnerable persons. "Older persons" are defined in existing law as persons who are 60 years of age or older. (NRS 200.5092) "Vulnerable persons" are defined in existing law as persons who are 18 years of age or older who: (1) suffer from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or (2) have one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living. (NRS 200.5092) Section 10 of this bill specifies which officers and employees must receive the training, when the training must be provided and the content of the training. Section 10 further requires those officers and employees to report incidents that reasonably appear to be exploitation of an older or vulnerable person. Section 11 of this bill requires each financial institution to designate a person to whom such reports must be made. The person so designated is then responsible for determining when a formal report must be reported to ~~[a law enforcement]~~ *the appropriate* agency. Section 12 of this bill provides for a civil penalty when an employee, officer or designated reporter who has received training fails to report an incident.

Sections 15-23 of this bill add similar provisions to the chapter governing savings and loan associations. (Chapter 673 of NRS) Sections 25-33 of this bill add similar provisions to the chapter governing thrift companies. (Chapter 677 of NRS) Sections 35-43 of this bill add similar provisions to the chapter governing credit unions. (Chapter 678 of NRS)

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. Chapter 657 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 12, inclusive, of this act.

Sec. 4. *As used in sections 4 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. *"Designated reporter" means a person designated by a financial institution to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 11 of this act.*

Sec. 6. *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

Sec. 7. *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

Sec. 8. *"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.*

Sec. 9. *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 10. *1. Each financial institution shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each officer and employee of the financial institution who:*

(a) May, as part of his regular duties for the financial institution, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the officer or employee is employed by the financial institution.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 11. *1. Each financial institution shall designate a person or persons to whom an officer or employee of the financial institution must report known or suspected exploitation of an older person or vulnerable person.*

2. If an officer or employee reports known or suspected exploitation of an older person ~~[or vulnerable person]~~ to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person ~~[or vulnerable person]~~ has been exploited, the designated reporter shall :

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation ~~[in the same manner as a person required to make a report pursuant to NRS 200.5093 or 200.50935, as applicable.]~~ of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 12. *1. If an employee or officer who has received the training required pursuant to section 10 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 11 of this act, the financial institution that employs the employee, officer or designated reporter is subject to a civil penalty in an amount:*

(a) Not to exceed $1,000, if the failure to report was not willful; or

(b) Not to exceed $5,000, if the failure to report was willful.

2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.

3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.

Sec. 13. NRS 657.150 is hereby amended to read as follows:

657.150 As used in NRS 657.150 to 657.210, inclusive, *and sections 4 to 12, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 657.160 and 657.170 have the meanings ascribed to them in those sections.

Sec. 14. Chapter 673 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 23, inclusive, of this act.

Sec. 15. *As used in sections 15 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 16 to 20, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 16. *"Designated reporter" means a person designated by an association to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 22 of this act.*

Sec. 17. *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

Sec. 18. *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

Sec. 19. *"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.*

Sec. 20. *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 21. *1. Each association shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each director, officer and employee of the association who:*

(a) May, as part of his regular duties for the association, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the director, officer or employee is employed by the association or assumes the position.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. A director, officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 22. *1. Each association shall designate a person or persons to whom a director, officer or employee of the association must report known or suspected exploitation of an older person or vulnerable person.*

2. If a director, officer or employee reports known or suspected exploitation of an older person ~~[or vulnerable person]~~ to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person ~~[or vulnerable person]~~ has been exploited, the designated reporter shall :

*(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation ~~[in the same manner as a person required to make a~~

~~*report pursuant to NRS 200.5093 or 200.50935, as applicable.]*~~ *of the older person to:*

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If a director, officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. A director, officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 23. *1. If a director, officer or employee who has received the training required pursuant to section 21 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a*

designated reporter or if a designated reporter fails to make a report pursuant to section 22 of this act, the association for which the director, officer or employee or designated reporter works is subject to a civil penalty in an amount:

(a) Not to exceed $1,000, if the failure to report was not willful; or

(b) Not to exceed $5,000, if the failure to report was willful.

2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.

3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.

Sec. 24. Chapter 677 of NRS is hereby amended by adding thereto the provisions set forth as sections 25 to 33, inclusive, of this act.

Sec. 25. *As used in sections 25 to 33, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 26 to 30, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 26. *"Designated reporter" means a person designated by a licensee to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 32 of this act.*

Sec. 27. *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

Sec. 28. *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

Sec. 29. *"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.*

Sec. 30. *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 31. *1. Each licensee shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each officer and employee of the licensee who:*

(a) May, as part of his regular duties for the licensee, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the officer or employee is employed by the licensee.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 32. *1. Each licensee shall designate a person or persons to whom an officer or employee of the licensee must report known or suspected exploitation of an older person or vulnerable person.*

2. If an officer or employee reports known or suspected exploitation of an older person ~~[or vulnerable person]~~ to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person ~~[or vulnerable person]~~ has been exploited, the designated reporter shall :

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation ~~[in the same manner as a person required to make a report pursuant to NRS 200.5093 or 200.50935, as applicable.]~~ of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 33. *1. If an employee or officer who has received the training required pursuant to section 31 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 32 of this act, the licensee that employs the employee, officer or designated reporter is subject to a civil penalty in an amount:*

(a) Not to exceed $1,000, if the failure to report was not willful; or

(b) Not to exceed $5,000, if the failure to report was willful.

2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.

3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.

Sec. 34. Chapter 678 of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 43, inclusive, of this act.

Sec. 35. *As used in sections 35 to 43, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 36 to 40, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 36. *"Designated reporter" means a person designated by a credit union to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 42 of this act.*

Sec. 37. *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

Sec. 38. *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

Sec. 39. *"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.*

Sec. 40. *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 41. *1. Each credit union shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each ~~[loan officer and]~~ employee of the credit union who:*

(a) May, as part of his regular duties for the credit union, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the ~~[loan officer or]~~ employee is employed by the credit union.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. ~~[A loan officer or]~~ An employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 42. *1. Each credit union shall designate a person or persons to whom ~~[a loan officer or]~~ an employee of the credit union must report known or suspected exploitation of an older person or vulnerable person.*

2. If ~~[a loan officer or]~~ an employee reports known or suspected exploitation of an older person ~~[or vulnerable person]~~ to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person ~~[or vulnerable person]~~ has been exploited, the designated reporter shall :

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation ~~[in the same manner as a person required to make a report pursuant to NRS 200.5093 or 200.50935, as applicable. A loan officer,]~~ of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 43. *1. If ~~[a loan officer or]~~ an employee who has received the training required pursuant to section 41 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 42 of this act, the credit union that employs the ~~[loan officer,]~~ employee or designated reporter shall be subject to a civil penalty in an amount:*

(a) Not to exceed $1,000, if the failure to report was not willful; or

(b) Not to exceed $5,000, if the failure to report was willful.

2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.

3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 91.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 828.

"SUMMARY—Makes various changes to provisions governing explosives. (BDR 42-691)"

"AN ACT relating to explosives; establishing a definition of the term "explosive"; enacting provisions relating to the labeling of containers used for storing explosives; establishing requirements concerning the making of mandatory reports regarding the distribution of explosives under certain circumstances; revising the provisions relating to records regarding transactions and inventories of explosives; revising provisions relating to the storage of explosives; *providing that certain activities, substances and items that are exempt from certain federal laws are also exempt from certain state laws;* providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill establishes a definition of the term "explosive" for the purposes of certain provisions relating to explosives. Section 3 of this bill provides that any container used to store an explosive must be properly labeled in accordance with all applicable state and federal laws and regulations. Section 4 of this bill makes it a gross misdemeanor for a person to fail to make a report to a local law enforcement agency and fire department if he has knowledge of any unusual circumstances involving explosives. Section 4 of this bill excludes from its application persons working in their official capacities in the mining industry. *Section 4.5 of this bill provides that certain activities, substances and items that are exempt from certain federal laws are also exempt from certain state laws.* Section 5 of this bill requires persons who conduct certain transactions involving explosives to create and maintain certain written records and inventories concerning those transactions and prohibits such persons from falsifying such records or failing to create or maintain such records. Section 5 of this bill also requires persons to store explosives in conformity with federal law and requires persons who store explosives to notify a local law enforcement

agency and fire department of certain information relating to that storage. Section 5 of this bill excludes from its application persons working in their official capacities in the mining industry.

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

Section 1. Chapter 476 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[, 3 and 4]~~ *to 4.5, inclusive,* of this act.

~~Sec. 2.~~ *As used in this chapter, "explosive" means any explosive material included in the list of explosive materials published in the Federal Register and revised annually by the Attorney General of the United States pursuant to 18 U.S.C. §§ 841 et seq.*

Sec. 3. *Any container used to store an explosive must be marked in accordance with all applicable state and federal laws and regulations.*

Sec. 4. *1. Except as otherwise provided in subsection 3, any person who has knowledge of an unusual sale, purchase, theft or loss of any explosive shall, within 24 hours after the discovery, report the sale, purchase, theft or loss to the local law enforcement agency and local fire department in whose jurisdiction the sale, purchase, theft or loss occurred. The report must contain, when possible:*

(a) The name, birth date and address of the persons involved.

(b) The amount and type of explosive involved.

(c) Any other information the person making the report believes to be useful.

2. Any person who violates the provisions of this section is guilty of a gross misdemeanor.

3. The provisions of this section do not apply with respect to a person who is acting in his official capacity as an owner, officer or employee of a company, corporation or partnership engaged in the business of mining.

4. For the purposes of this section, there is a rebuttable presumption that a sale, purchase, theft or loss of any explosive is "unusual" if that type of sale, purchase, theft or loss does not regularly occur in the ordinary course of business.

Sec. 4.5. *If the provisions of chapter 40 of Title 18 of the United States Code do not apply to an activity, substance or item pursuant to 18 U.S.C. § 845(a), this chapter does not apply to the activity, substance or item.*

Sec. 5. NRS 476.010 is hereby amended to read as follows:

476.010 1. Except in the due course of trade ~~[,]~~ *or as otherwise provided in subsection 9,* it is unlawful for any dealer in dynamite, nitroglycerine, gunpowder or *any* other ~~[high]~~ explosive to ~~[dispose of, transfer or sell]~~ *distribute* to any person, in any unusual manner, an excessive amount of such commodities.

2. ~~[A record shall be kept by all dealers in such commodities of all such sales of the same made by them, showing the purpose for which the same is to be used and to whom sold.~~

~~3. No such sale of such commodities shall be made to any person except upon a signed order delivered to the merchant dealing in the same, stating the purpose and use to which the same is to be put.~~

~~4.~~] *It is unlawful for any person to manufacture, import, purchase or distribute any explosive without creating and maintaining a written record that includes the information required pursuant to this section.*

3. If a person involved in a transaction is not a business or governmental entity or an agent of a business or governmental entity, the written record required pursuant to subsection 2 must include all the following information:

(a) The name of the person.

(b) The signature of the person.

(c) The driver's license number of the person.

(d) The residential address of the person.

(e) The date of the transaction.

(f) A statement of intended use.

4. If a person involved in a transaction is a business or governmental entity or an agent of a business or governmental entity, the written record required pursuant to subsection 2 must include all the following information with respect to the business or governmental entity and the agent of the business or governmental entity, if appropriate:

(a) The name of the business or governmental entity.

(b) The taxpayer identification number of the business or governmental entity.

(c) The principal and local addresses of the business or governmental entity.

(d) The name and any other appropriate personal identifying information that is sufficient to identify the agent authorized to act for the business or governmental entity.

(e) The date of the transaction.

(f) A statement of intended use.

5. It is unlawful for any person to knowingly and intentionally:

(a) Make any false or misleading entry in a written record required pursuant to subsection 2; or

(b) Fail to make an entry in a written record required pursuant to subsection 2.

6. Any person who keeps any explosive for any purpose shall do so in conformity with the regulations governing the storage of explosives promulgated by the Attorney General of the United States pursuant to 18 U.S.C. § 842 and set forth in 27 C.F.R. §§ 555.201 et seq.

7. Any person who stores any explosive shall, within 24 hours after beginning to store the explosive, notify the local law enforcement agency and local fire department in whose jurisdiction the explosive is stored of:

(a) The type of explosive that is being stored; and

(b) The location of the site where the explosive is stored.

8. Any person ~~[violating]~~ *who violates* the provisions of this section ~~[shall be]~~ *is* guilty of a gross misdemeanor.

9. The provisions of this section do not apply with respect to a person who is acting in his official capacity as an owner, officer or employee of a company, corporation or partnership engaged in the business of mining.

10. As used in this section:

(a) "Distribute" means to sell, issue, give, transfer or otherwise dispose of an explosive.

(b) "Person" means any of the following:

(1) A natural person.

(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.

(3) A government, a political subdivision of a government or an agency or instrumentality of a government or a political subdivision of a government.

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 101.

Bill read second time.

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

Amendment No. 682.

"SUMMARY—Revises provisions governing the Commission on Tourism. (BDR 18-772)"

"AN ACT relating to the Commission on Tourism; amending the membership of the Commission; making certain ex officio nonvoting members of the Commission voting members; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Commission on Tourism is comprised of the Lieutenant Governor, eight members who are appointed by the Governor and three ex officio nonvoting members who are the chief administrative officers of the county fair and recreation boards or, if there are no county fair and recreation boards, the chairmen of the boards of county commissioners, of the three counties that paid the largest amount of the proceeds from the tax on transient lodging for credit to the Fund for the Promotion of Tourism. (NRS 231.170, 231.250) Section 2 of this bill reduces the number of ex officio *nonvoting* members on the Commission from three to two (the

overall membership of the Commission is therefore reduced from twelve to eleven) and ~~[provides that the ex-officio members are the executive officers of the convention and visitors authorities of the two counties that paid the largest amount of the proceeds from the tax on transient lodging for credit to the Fund. Section 2 of this bill also]~~ makes ~~[the ex-officio nonvoting]~~ *those members voting* members of the Commission . ~~[voting members.]~~

Section 3 of this bill increases the number of members of the Commission required to constitute a quorum from four members to six members as a result of the increased number of voting members on the Commission. (NRS 231.180)

Section 4 of this bill clarifies that only the appointed members of the Commission are entitled to a salary for their attendance at meetings of the Commission. (NRS 231.190)

Sections 1 and 5-12 of this bill change the title of the "Executive Director" of the Commission to the "Director" for the purpose of conformance to existing usage.

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

Section 1. NRS 231.015 is hereby amended to read as follows:

231.015 1. The Interagency Committee for Coordinating Tourism and Economic Development is hereby created. The Committee consists of the Governor, who is its Chairman, the Lieutenant Governor, who is its Vice Chairman, the ~~[Executive]~~ Director of the Commission on Tourism, the Executive Director of the Commission on Economic Development and such other members as the Governor may from time to time appoint. The appointed members of the Committee serve at the pleasure of the Governor.

2. The Committee shall meet at the call of the Governor.

3. The Committee shall:

(a) Identify the strengths and weaknesses in state and local governmental agencies which enhance or diminish the possibilities of tourism and economic development in this State.

(b) Foster coordination and cooperation among state and local governmental agencies, and enlist the cooperation and assistance of federal agencies, in carrying out the policies and programs of the Commission on Tourism and the Commission on Economic Development.

(c) Formulate cooperative agreements between the Commission on Tourism or the Commission on Economic Development, and state and other public agencies pursuant to the Interlocal Cooperation Act, so that each of those commissions may receive applications from and, as appropriate, give governmental approval for necessary permits and licenses to persons who wish to promote tourism, develop industry or produce motion pictures in this State.

4. The Governor may from time to time establish regional or local subcommittees to work on regional or local problems of economic development or the promotion of tourism.

Sec. 2. NRS 231.170 is hereby amended to read as follows:

231.170 1. The Commission on Tourism is composed of [the] *11 voting members as follows:*

(a) The Lieutenant Governor, who is its Chairman [, and eight] *;*

(b) Eight members , [who are] appointed by the Governor , [.

2. The Governor shall appoint as members of the Commission persons] who are informed on and have experience in travel and tourism, including the business of gaming [.

3.] *; and*

(c) The chief administrative *[executive]* officers of the county fair and recreation boards *[convention and visitors authorities]* or, if there is no county fair and recreation board *[convention and visitors authority]* in the county, the chairman of the board of county commissioners, of the [three] *two* counties that paid the largest amount of the proceeds from the taxes imposed on the revenue from the rental of transient lodging to the Department of Taxation for deposit with the State Treasurer for credit to the Fund for the Promotion of Tourism created by NRS 231.250 for the previous fiscal year . [are ex officio but nonvoting members of the Commission.]

2. A change in any member of the Commission who serves pursuant to [the provisions of this] *paragraph (c) of* subsection *1* that is required because of a change in the amount of the proceeds paid to the Department of Taxation by each county must be effective on January 1 of the calendar year immediately following the fiscal year in which the proceeds were paid to the Department of Taxation.

[4. In addition to the appointments made]

3. Of the members appointed by the Governor pursuant to *paragraph (b) of* subsection [3, the Governor shall appoint:] *1:*

(a) At least one member [who is] *must be* a resident of [Clark County.] *a county whose population is 400,000 or more.*

(b) At least one member [who is] *must be* a resident of [Washoe County.] *a county whose population is 100,000 or more but less than 400,000.*

(c) At least two members [who are] *must be* residents of counties whose population is *less than* 100,000 . [or less.]

(d) [One member who is] *Four members must be* [a resident] *residents* of any county in this State.

Sec. 3. NRS 231.180 is hereby amended to read as follows:

231.180 1. The Commission on Tourism shall meet once each calendar quarter, or at more frequent times if it deems necessary, and may, within the limitations of its budget, hold special meetings at the call of the Chairman or a majority of the members.

2. The [Executive] Director is the Secretary of the Commission.

3. The Commission shall prescribe rules for its own management and government.

4. ~~[Four]~~ *Six* members of the Commission constitute a quorum . ~~[, but a majority of the members of the Commission are required to exercise the power conferred on the Commission.]~~

5. The Governor may remove ~~[a]~~ *an appointed* member from the Commission if the member neglects his duty or commits malfeasance in office.

Sec. 4. NRS 231.190 is hereby amended to read as follows:

231.190 Each *appointed* member of the Commission on Tourism is entitled to receive a salary of $80 for each day's attendance at a meeting of the Commission.

Sec. 5. NRS 231.210 is hereby amended to read as follows:

231.210 The ~~[Executive]~~ Director of the Commission on Tourism:

1. Must be appointed by the Governor from a list of three persons submitted to him by the Commission.

2. Is responsible to the Commission and serves at its pleasure.

3. Shall, except as otherwise provided in NRS 284.143, devote his entire time to the duties of his office, and he shall not follow any other gainful employment or occupation.

Sec. 6. NRS 231.220 is hereby amended to read as follows:

231.220 The ~~[Executive]~~ Director of the Commission on Tourism shall direct and supervise all its administrative and technical activities, including coordinating its plans for tourism and publications, scheduling its programs, analyzing the effectiveness of those programs and associated expenditures, and cooperating with other governmental agencies which have programs related to travel and tourism. In addition to other powers and duties, the ~~[Executive]~~ Director:

1. Shall attend all meetings of the Commission and act as its Secretary, keeping minutes and audio recordings or transcripts of its proceedings.

2. Shall report regularly to the Commission concerning the administration of its policies and programs.

3. Shall serve as the Director of the Division of Tourism.

4. Shall appoint the Administrator of the Division of Publications.

5. May perform any other lawful acts which he considers necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive.

Sec. 7. NRS 231.230 is hereby amended to read as follows:

231.230 1. The Commission on Tourism through its ~~[Executive]~~ Director may:

(a) Employ such professional, technical, clerical and operational employees as the operation of the Commission may require; and

(b) Employ such experts, researchers and consultants and enter into such contracts with any public or private entities as may be necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive.

2. The ~~[Executive]~~ Director and all other nonclerical employees of the Commission are in the unclassified service of the State.

3. The clerical employees of the Commission are in the classified service of the State.

Sec. 8. NRS 231.240 is hereby amended to read as follows:

231.240 1. The ~~[Executive]~~ Director of the Commission on Tourism may charge reasonable fees for materials prepared for distribution.

2. All such fees must be deposited with the State Treasurer for credit to the Commission. The fees must first be expended exclusively for materials and labor incident to preparing and printing those materials for distribution. Any remaining fees may be expended, in addition to any other money appropriated, for the support of the Commission.

Sec. 9. NRS 231.300 is hereby amended to read as follows:

231.300 In performing their duties, the ~~[Executive]~~ Director of the Commission on Tourism and the Administrator of the Division of Publications shall not interfere with the functions of any other state agencies, but those agencies shall, from time to time, on reasonable request, furnish the ~~[Executive]~~ Director and Administrator with data and other information from their records bearing on the objectives of the Commission and its divisions. The ~~[Executive]~~ Director and Administrator shall avail themselves of records and assistance of such other state agencies as might make a contribution to the work of the Commission.

Sec. 10. NRS 235.012 is hereby amended to read as follows:

235.012 1. The Director, after consulting with the ~~[Executive]~~ Director of the Commission on Tourism, the Administrator of the Division of Museums and History of the Department of Cultural Affairs and the Administrator of the Division of Minerals of the Commission on Mineral Resources, may contract with a mint to produce medallions made of gold, silver, platinum or nonprecious metals and bars made of gold, silver or platinum.

2. The decision of the Director to award a contract to a particular mint must be based on the ability of the mint to:

(a) Provide a product of the highest quality;

(b) Advertise and market the product properly, including the promotion of museums and tourism in this State; and

(c) Comply with the requirements of the contract.

3. The Director shall award the contract to the lowest responsible bidder, except that if in his judgment no satisfactory bid has been received, he may reject all bids.

4. All bids for the contract must be solicited in the manner prescribed in NRS 333.310 and comply with the provisions of NRS 333.330.

Sec. 11. NRS 235.014 is hereby amended to read as follows:

235.014 1. The ore used to produce a medallion or bar must be mined in Nevada, if the ore is available. If it is not available, ore newly mined in the United States may be used. Each medallion or bar made of gold, silver or platinum must be 0.999 fine. Additional series of medallions made of gold, silver or platinum at degrees of fineness of 0.900 or greater may be approved

by the Director with the concurrence of the Interim Finance Committee. The degree of fineness of the materials used must be clearly indicated on each medallion.

2. Medallions may be minted in weights of 1 ounce, 0.5 ounce, 0.25 ounce and 0.1 ounce.

3. Bars may be minted in weights of 1 ounce, 5 ounces, 10 ounces and 100 ounces.

4. Each medallion must bear on its obverse The Great Seal of the State of Nevada and on its reverse a design selected by the Director, in consultation with

the ~~[Executive]~~ Director of the Commission on Tourism, the Administrator of the Division of Museums and History of the Department of Cultural Affairs and the Administrator of the Division of Minerals of the Commission on Mineral Resources.

Sec. 12. NRS 408.210 is hereby amended to read as follows:

408.210 1. The Director may restrict the use of, or close, any highway whenever he considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Commission on Economic Development or the *Director of the* Commission on Tourism.

2. The Director may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. The Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or his agent. In lieu of personal service upon that person or his agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of

action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of $100 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, he may issue a license to the owner or his agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or his agent, the owner or agent may propose a time within which he will relocate or remove the encroachment as required. If the Director and the owner or his agent agree upon such a time, the Director shall not himself remove the encroachment unless the owner or his agent has failed to do so within the time agreed. If the Director and the owner or his agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or his agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

Sec. 13. This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 107.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 791.

"SUMMARY—Revises the provisions governing the possession of weapons at certain locations. (BDR 15-764)"

"AN ACT relating to weapons; prohibiting the possession of certain dangerous weapons on the property of the Nevada System of Higher Education or a school and in a school vehicle; prohibiting the possession of certain weapons at an activity sponsored by a school; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits the possession of certain weapons on the property of the Nevada System of Higher Education or a private or public school or while in a vehicle of a private or public school. (NRS 202.265) A person who possesses a prohibited weapon is guilty of a gross misdemeanor. Additionally, a person who commits a gross misdemeanor on the property of a private or public school, at an activity sponsored by a private or public school, on a school bus or at a bus stop must be punished by imprisonment in

the county jail for not fewer than 15 days and may be punished by a fine of not more than $2,000. (NRS 193.1605)

This bill adds items to the list of prohibited weapons and provides that a person must not carry or possess a prohibited weapon at an activity sponsored by a private or public school. This bill further prohibits a person from carrying certain dangerous knives on school property during school hours or in a school vehicle. This bill provides an exception for carrying a knife if necessary for an employee to perform his job or if the knife is provided for use in a class or as part of a program.

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

Section 1. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess, while on the property of the Nevada System of Higher Education or a private or public school or while in a vehicle of a private or public school:

(a) An explosive or incendiary device;

(b) A dirk, dagger or switchblade knife;

(c) A nunchaku or trefoil;

(d) A blackjack or billy club or metal knuckles; ~~[or]~~

(e) *A sword;*

(f) An ax or hatchet;

(g) A machete;

(h) A pistol, revolver or other firearm ~~[.]~~ *; or*

(i) Other deadly weapon.

2. *Except as otherwise provided in this section, a person shall not carry or possess any of the items set forth in subsection 1 at an activity sponsored by a private or public school.*

3. Except as otherwise provided in this subsection, a person shall not knowingly carry or possess a dangerous knife while on the property of a private or public school during school hours or while in a vehicle of a private or public school. This subsection does not prohibit a person from carrying or possessing a knife in such situations if the person is:

(a) An employee of the school, if a knife is necessary to perform the functions of his job.

(b) A pupil who is enrolled in a class or program in which a knife must be used, so long as the knife is provided to the pupil by the teacher of the class or the person responsible for the program for use in the class or as part of the program.

4. Any person who violates ~~[subsection 1]~~ *this section* is guilty of a gross misdemeanor.

~~[3.]~~ *5.* This section does not prohibit the possession of a weapon listed in ~~[subsection 1]~~ *this section* on the property of a private or public school by a:

(a) Peace officer;

(b) School security guard; or

(c) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school to carry or possess the weapon.

~~[4.]~~ *6.* For the purposes of this section:

(a) *"Dangerous knife" means a knife having a blade that is 2 inches or more in length when measured from the tip of the knife which is customarily sharpened to the unsharpened extension of the blade which forms the hinge connecting the blade to the handle.*

(b) "Firearm" includes:

(1) Any device used to mark the clothing of a person with paint or any other substance; and

(2) Any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

~~[(b)]~~ *(c)* "Nunchaku" has the meaning ascribed to it in NRS 202.350.

~~[(c)]~~ *(d)* "Switchblade knife" has the meaning ascribed to it in NRS 202.350.

~~[(d)]~~ *(e)* "Trefoil" has the meaning ascribed to it in NRS 202.350.

~~[(e)]~~ *(f)* "Vehicle" has the meaning ascribed to "school bus" in NRS 484.148.

Sec. 2. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while he is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while he is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while he is on the premises of:

(a) A public building that is located on the property of a public school or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed firearm while he is on the premises of the public building pursuant to paragraph (c) of subsection ~~[3]~~ *5* of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless the permittee is not prohibited from carrying a concealed firearm while he is on the premises of the public building pursuant to subsection 4.

4. The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which he presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

5. A person who violates subsection 2 or 3 is guilty of a misdemeanor.

6. As used in this section, "public building" means any building or office space occupied by:

(a) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(b) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

➥ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 3. This act becomes effective on July 1, 2007.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Titus, Coffin, McGinness and Beers.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 110.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 711.

"SUMMARY—~~[Repeals]~~ *Revises* the prospective expiration of the exemption from the property tax levied on the real and personal property of certain apprenticeship programs. (BDR S-75)"

"AN ACT relating to taxation; ~~[repealing]~~ *revising* the prospective expiration of the exemption from the property tax levied on the real and personal property of certain apprenticeship programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides an exemption from the taxes levied on the real and personal property of an apprenticeship program if the property is held in trust or owned by a local or state apprenticeship committee. In addition, the apprenticeship program must be registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS and operated by an organization qualified pursuant to 26 U.S.C. § 501(c)(3) or

(5). (NRS 361.106) The exemption expires by limitation on July 1, 2007.

This bill ~~[removes the provision which requires the exemption to expire by limitation.]~~ *changes the expiration date from July 1, 2007, to July 1, 2022.*

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

Delete existing sections 1 and 2 of this bill and replace with the following new sections 1 and 2:

Section 1. *Section 2 of chapter 210, Statutes of Nevada 1999, as amended by section 58 of chapter 10, Statutes of Nevada 2001, at page 68, is hereby amended to read as follows:*

Sec. 2. This act becomes effective on July 1, 1999, and expires by limitation on July 1, ~~[2007.]~~ *2022.*

Sec. 2. *This act becomes effective on June 30, 2007.*

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Senator Horsford disclosed that he is a member of a nonprofit organization.

Senator Hardy disclosed that he is a member of a nonprofit organization.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 112.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 665.

"SUMMARY—Makes various changes to provisions governing protective orders. (BDR 3-48)"

"AN ACT relating to protective orders; expanding the circumstances which prohibit a court from admitting a person who is arrested for violating an order for protection against domestic violence to bail sooner than 12 hours after his arrest; applying the same standards for not admitting a person to bail sooner than 12 hours after his arrest to a person arrested for violating an order for protection against stalking, aggravated stalking or harassment; establishing the amount of bail that the arrested person must post to be released for such an offense when the amount has not otherwise been established by the court or magistrate; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a court from admitting to bail a person who is arrested for violating an order for protection against domestic violence, whether the person is a child or an adult, if the arresting officer determines that the violation of the order was accompanied by a direct or indirect threat of harm. (NRS 62C.020, 125.555, 178.484) Sections 2 and 3 of this bill further prohibit a court from admitting a person to bail sooner than 12 hours after arrest if the person ~~[is under the influence of alcohol or a controlled~~

~~substance or~~] has previously violated an order for protection ~~[.]~~ *or has a certain concentration of alcohol in his blood or breath or a certain amount of a prohibited substance in his blood or urine at the time of, or within 2 hours after, the violation.* (NRS 62C.020, 125.555) Sections 2 and 5 of this bill make the circumstances requiring the 12-hour hold of a person who violates an order for protection against domestic violence applicable to a person arrested for violating an order for protection against stalking, aggravated stalking or harassment. (NRS 62C.020, 178.484)

Existing law requires notice to be provided to a person who is arrested for violating an order for protection against domestic violence and to the alleged victim of such a person stating the circumstances under which such a person may not be admitted to bail sooner than 12 hours after arrest. (NRS 33.030, 171.1225) Sections 1 and 4 of this bill add the new circumstances to that notice. Section 7 of this bill further requires such notice to be included with a temporary or extended order for protection against stalking, aggravated stalking or harassment. (NRS 200.591)

Section 5 of this bill further makes existing law which establishes the amount of bail that a person must post before being admitted to bail if the person is held for more than 12 hours after his arrest for violating an order for protection against domestic violence without appearing personally before a magistrate or without the amount of bail otherwise being established by a magistrate or a court applicable to a person who violates an order for protection against stalking, aggravated stalking or harassment. (NRS 178.484)

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

Section 1. NRS 33.030 is hereby amended to read as follows:

33.030 1. The court by a temporary order may:

(a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;

(b) Exclude the adverse party from the applicant's place of residence;

(c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;

(d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant; and

(e) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

(a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary; and

(b) Order the adverse party to:

(1) Avoid or limit communication with the applicant or minor child;

(2) Pay rent or make payments on a mortgage on the applicant's place of residence or pay for the support of the applicant or minor child if he is found to have a duty to support the applicant or minor child; and

(3) Pay all costs and fees incurred by the applicant in bringing the action.

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if ~~[the]~~ *:*

(a) The ~~[person is under the influence of alcohol or a controlled substance;~~

~~(b) The person has previously violated a temporary or extended order for protection; or~~

~~(c) The]~~ arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~[.]~~ *;*

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

Sec. 2. NRS 62C.020 is hereby amended to read as follows:

62C.020 1. A child must not be released from custody sooner than 12 hours after the child is taken into custody if the child is taken into custody for committing a battery that constitutes domestic violence pursuant to NRS 33.018.

2. A child must not be released from custody sooner than 12 hours after the child is taken into custody if ~~[~~*:*

~~(a) The]~~ *the* child is taken into custody for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS ~~[; and~~

~~(b)]~~ *or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 and:*

(a) The ~~*[child is under the influence of alcohol or a controlled substance;*~~

~~*(b) The child has previously violated a temporary or extended order for protection of the type for which he has been arrested; or*~~

~~*(c) The]*~~ peace officer or probation officer who has taken the child into custody determines that such a violation is accompanied by a direct or indirect threat of harm ~~[.]~~ *;*

(b) The child has previously violated a temporary or extended order for protection of the type for which he has been arrested; or

(c) At the time of the violation or within 2 hours after the violation, the child has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

3. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 3. NRS 125.555 is hereby amended to read as follows:

125.555 1. A restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence which is issued in an action or proceeding brought pursuant to this title must provide notice that a person who is arrested for violating the order or injunction will not be admitted to bail sooner than 12 hours after his arrest if ~~[the]~~ *:*

(a) The ~~*[person is under the influence of alcohol or a controlled substance;*~~

~~*(b) The person has previously violated a temporary or extended order for protection; or*~~

~~*(c) The]*~~ arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~[.]~~ *;*

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

2. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 4. NRS 171.1225 is hereby amended to read as follows:

171.1225 1. When investigating an act of domestic violence, a peace officer shall:

(a) Make a good faith effort to explain the provisions of NRS 171.137 pertaining to domestic violence and advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community.

(b) Provide a person suspected of being the victim of an act of domestic violence with a written copy of the following statements:

(1) My name is officer ..... (naming the investigating officer). Nevada law requires me to inform you of the following information.

(2) If I have probable cause to believe that a battery has been committed against you, your minor child or the minor child of the person believed to have committed the battery in the last 24 hours by your spouse, your former spouse, any other person to whom you are related by blood or marriage, a person with whom you are or were actually residing, a person with whom you have had or are having a dating relationship or a person with whom you have a child in common, I am required, unless mitigating circumstances exist, to arrest the person suspected of committing the act.

(3) If I am unable to arrest the person suspected of committing the battery, you have the right to request that the prosecutor file a criminal complaint against the person. I can provide you with information on this procedure. If convicted, the person who committed the battery may be placed on probation, ordered to see a counselor, put in jail or fined.

(4) The law provides that you may seek a court order for the protection of you or your minor children against further threats or acts of domestic violence. You do not need to hire a lawyer to obtain such an order for protection.

(5) An order for protection may require the person who committed or threatened the act of domestic violence against you to:

(I) Stop threatening, harassing or injuring you or your children;

(II) Move out of your residence;

(III) Stay away from your place of employment;

(IV) Stay away from the school attended by your children;

(V) Stay away from any place you or your children regularly go; and

(VI) Avoid or limit all communication with you or your children.

(6) A court may make future orders for protection which award you custody of your children and require the person who committed or threatened the act of domestic violence against you to pay:

(I) The rent or mortgage due on the place in which you live;

(II) The amount of money necessary for the support of your children; and

(III) Part or all of the costs incurred by you in obtaining the order for protection.

(7) To get an order for protection, go to room number ..... (state the room number of the office at the court) at the court, which is located at ..... (state the address of the court). Ask the clerk of the court to provide you with the forms for an order of protection.

(8) If the person who committed or threatened the act of domestic violence against you violates the terms of an order for protection, he may be arrested and, if ~~[the]~~ *:*

(I) The ~~*[person is under the influence of alcohol or a controlled substance;*~~

~~*(II) The person has previously violated a temporary or extended order for protection; or*~~

~~*(III) The]*~~ arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~[.]~~ *;*

(II) The person has previously violated a temporary or extended order for protection; or

(III) At the time of the violation or within 2 hours after the violation, the person has a concentration of alcohol of 0.08 or more in his blood or breath or an amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

➥ he will not be admitted to bail sooner than 12 hours after his arrest.

(9) You may obtain emergency assistance or shelter by contacting your local program against domestic violence at ..... (state name, address and telephone number of local program) or you may call, without charge to you, the Statewide Program Against Domestic Violence at ..... (state toll-free telephone number of Statewide Program).

2. As used in this section, "act of domestic violence" means any of the following acts committed by a person against his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons or his minor child:

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(f) False imprisonment.

(g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

3. The failure of a peace officer to carry out the requirements set forth in subsection 1 is not a defense in a criminal prosecution for the commission of an act of domestic violence, nor may such an omission be considered as negligence or as causation in any civil action against the peace officer or his employer.

4. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 5. NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail;

(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or

(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail; or

(b) A department of alternative sentencing directs the detention facility to admit the person to bail.

4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.

5. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after his arrest. If the person is admitted to bail more than 12 hours after his arrest, ~~[pursuant to subsection 5 of NRS 171.178,]~~ without appearing personally before a magistrate, or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm;

(b) Five thousand dollars, if the person has:

(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(c) Fifteen thousand dollars, if the person has:

(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.

➥ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

6. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS , *or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591* must not be admitted to bail sooner than 12 hours after his arrest if ~~[the]~~ *:*

(a) The ~~*[person is under the influence of alcohol or a controlled substance;*~~

~~*(b) If the person has previously violated a temporary or extended order for protection of the type for which he has been arrested; or*~~

~~*(c) The]*~~ arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~[.]~~ *;*

(b) The person has previously violated a temporary or extended order for protection of the type for which he has been arrested; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

7. If ~~[the]~~ *a* person is admitted to bail more than 12 hours after his arrest, pursuant to subsection ~~[5 of NRS 171.178,]~~ *6,* without appearing personally

before a magistrate, or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS ~~[,]~~ *, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591;*

(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS , ~~[,]~~ or *of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591; or*

(c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS ~~[.]~~ *, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591.*

➥ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS *, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591* if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

~~[7.]~~ *8.* The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.

~~[8.]~~ *9.* Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to

protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:

(a) Requiring the person to remain in this State or a certain county within this State;

(b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on his behalf;

(c) Prohibiting the person from entering a certain geographic area; or

(d) Prohibiting the person from engaging in specific conduct that may be harmful to his own health, safety or welfare, or the health, safety or welfare of another person.

➥ In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.

~~[9.]~~ *10.* If a person fails to comply with a condition imposed pursuant to subsection ~~[8,]~~ *9,* the court may, after providing the person with reasonable notice and an opportunity for a hearing:

(a) Deem such conduct a contempt pursuant to NRS 22.010; or

(b) Increase the amount of bail pursuant to NRS 178.499.

~~[10.]~~ *11.* An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his bail.

~~[11.]~~ *12.* Before a person may be admitted to bail, he must sign a document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document; and

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

➥ The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.

~~[12.]~~ *13.* If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.

~~[13.]~~ *14.* For the purposes of subsection 6, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 6. NRS 178.4851 is hereby amended to read as follows:

178.4851 1. Upon a showing of good cause, a court may release without bail any person entitled to bail if it appears to the court that it can impose conditions on the person that will adequately protect the health, safety and welfare of the community and ensure that he will appear at all times and places ordered by the court.

2. In releasing a person without bail , the court may impose such conditions as it deems necessary to protect the health, safety and welfare of the community and to ensure that he will appear at all times and places ordered by the court, including, without limitation, any condition set forth in subsection ~~[8]~~ *9* of NRS 178.484.

3. Upon a showing of good cause, a sheriff or chief of police may release without bail any person charged with a misdemeanor pursuant to standards established by a court of competent jurisdiction.

4. Before a person may be released without bail, he must file with the clerk of the court of competent jurisdiction a signed document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document;

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings; and

(d) He understands that any court of competent jurisdiction may revoke the order of release without bail and may order him into custody or require him to furnish bail or otherwise ensure the protection of the health, safety and welfare of the community or his appearance.

5. If a jurisdiction incurs any costs in returning a person to the jurisdiction to stand trial, the person failing to appear is responsible for paying those costs as restitution.

6. An order issued pursuant to this section that imposes a condition on a person who is released without bail must include a provision ordering a law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his release.

Sec. 7. NRS 200.591 is hereby amended to read as follows:

200.591 1. In addition to any other remedy provided by law, a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed against him by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who is allegedly committing the crime to:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named

in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

2. If a defendant charged with a crime involving harassment, stalking or aggravated stalking is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

5. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor.

(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Any court order issued pursuant to this section must:

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if:

(a) The ~~[person is under the influence of alcohol or a controlled substance;~~

~~(b) The person has previously violated a temporary or extended order for protection; or~~

~~(c) The]~~ arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~[.]~~ ;

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 120.

Bill read second time.

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

Amendment No. 882.

"SUMMARY—Revises notice requirements for a proposal to vacate certain rights-of-way or easements or to vacate or abandon certain streets. (BDR 22-376)"

"AN ACT relating to land use planning; revising the notice requirements for proposals to vacate certain rights-of-way or easements; providing requirements for notice to certain public utilities and television companies regarding proposals to abandon or vacate certain streets; requiring cities and counties to reserve and convey certain easements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill changes the method by which a city or county that proposes to vacate a right-of-way or easement owned by the city or county, which right-of-way or easement is required for a public purpose, must notify each owner of property abutting the proposed abandonment. This bill requires such notice to be made in a manner that provides confirmation of delivery but does not require the signature of the recipient. (NRS 278.480) This bill also requires a city or county to provide notice to certain public utilities and community antenna television companies before vacating or abandoning a street, and to reserve and convey an easement to the utility or television company if the utility or television company so requests. (NRS 278.480)

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

Section 1. NRS 278.480 is hereby amended to read as follows:

278.480 1. Except as otherwise provided in subsection 11, any abutting owner or local government desiring the vacation or abandonment of any street or easement owned by a city or a county, or any portion thereof, shall file a petition in writing with the planning commission or the governing body having jurisdiction.

2. The governing body may establish by ordinance a procedure by which, after compliance with the requirements for notification of public hearing set forth in this section, a vacation or abandonment of a street or an easement may be approved in conjunction with the approval of a tentative map pursuant to NRS 278.349.

3. A government patent easement which is no longer required for a public purpose may be vacated by:

(a) The governing body; or

(b) The planning commission, hearing examiner or other designee, if authorized to take final action by the governing body,

➥ without conducting a hearing on the vacation if the applicant for the vacation obtains the written consent of each owner of property abutting the proposed vacation and any utility that is affected by the proposed vacation.

4. Except as otherwise provided in subsection 3, if any right-of-way ~~*[held in fee]*~~ or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall ~~[notify by certified mail]~~ *, not less than 10 business days before the public hearing described in subsection 5:*

(a) Notify each owner of property abutting the proposed abandonment . ~~[and cause]~~ *Such notice must be provided by mail pursuant to a method that provides confirmation of delivery and does not require the signature of the recipient.*

(b) Cause a notice to be published at least once in a newspaper of general circulation in the city or county, setting forth the extent of the proposed abandonment and setting a date for public hearing . ~~[, which must be not less than 10 days and not more than 40 days after the date the notice is first published.]~~

5. Except as *otherwise* provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed. An

applicant or other person aggrieved by the decision of the planning commission, hearing examiner or other designee may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

6. ~~[If a utility has an easement over the property,]~~ *In addition to any other applicable requirements set forth in this section, before vacating or abandoning a street,* the governing body ~~[,]~~ *of the local government having jurisdiction over the street,* or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall provide ~~[in its order for the continuation of that easement.]~~ *each public utility and community antenna television company serving the affected area with written notice that a petition has been filed requesting the vacation or abandonment of the street. After receiving the written notice, the public utility or community antenna television company, as applicable, shall respond in writing, indicating either that the public utility or community antenna television company, as applicable, does not require an easement or that the public utility or community antenna television company, as applicable, wishes to request the reservation of an easement. If a public utility or community antenna television company indicates in writing that it wishes to request the reservation of an easement, the governing body of the local government having jurisdiction over the street that is proposed to be vacated or abandoned, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall reserve and convey an easement in favor of the public utility or community antenna television company, as applicable, and shall ensure that such easement is recorded in the office of the county recorder.*

7. The order must be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon the recordation, title to the street or easement reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest. In the event of a partial vacation of a street where the vacated portion is separated from the property from which it was acquired by the unvacated portion of it, the governing body may sell the vacated portion upon such terms and conditions as it deems desirable and in the best interests of the city or county. If the governing body sells the vacated portion, it shall afford the right of first refusal to each abutting property owner as to that part of the vacated portion which abuts his property, but no action may be taken by the governing body to force the owner to purchase that portion and that portion may not be sold to any person other than the owner if the sale would result in a complete loss of access to a street from the abutting property.

8. If the street was acquired by dedication from the abutting property owners or their predecessors in interest, no payment is required for title to the proportionate part of the street reverted to each abutting property owner. If the street was not acquired by dedication, the governing body may make its order conditional upon payment by the abutting property owners for their

proportionate part of the street of such consideration as the governing body determines to be reasonable. If the governing body determines that the vacation has a public benefit, it may apply the benefit as an offset against a determination of reasonable consideration which did not take into account the public benefit.

9. If an easement for light and air owned by a city or a county is adjacent to a street vacated pursuant to the provisions of this section, the easement is vacated upon the vacation of the street.

10. In any vacation or abandonment of any street owned by a city or a county, or any portion thereof, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may reserve and except therefrom all easements, rights or interests therein which the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, deems desirable for the use of the city ~~[, the county or any public utility.]~~ *or county*.

11. The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of an easement for a public utility owned or controlled by the governing body.

12. As used in this section ~~[, "government]~~ *:*

(a) "Community antenna television company" has the meaning ascribed to it in NRS 711.030.

(b) "Government patent easement" means an easement for a public purpose owned by the governing body over land which was conveyed by a patent.

(c) "Public utility" has the meaning ascribed to it in NRS 360.815.

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 127.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 792.

"SUMMARY—Revises provisions relating to interception of wire communications. (BDR ~~[15-1049)"]~~ *54-1049)*"

"AN ACT relating to communications; ~~[authorizing]~~ *clarifying that* a person ~~[to]~~ *may* record certain telephone calls made by collection agents and collection agencies ~~[without obtaining their consent;]~~ *after providing notice that the call is being recorded and making a statement to that effect on the recording;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally requires two-party consent before a person may record a telephone conversation. (NRS 200.620) The Nevada Supreme Court has interpreted existing law to prohibit a person from recording his own telephone conversations unless the other party to the conversation gives prior consent to the recording. (*Lane v. Allstate Ins. Co.*, 114 Nev. 1176 (1998)) ~~[However, the law recognizes exceptions to the requirement of two-party consent for certain situations, including: (1) interceptions of wire communications made pursuant to a court order; (2) interceptions of wire communications made with the consent of one party in an emergency situation and later ratified by a court; (3) interceptions of communications made by an offender in an institution or facility with a person outside of the institution or facility in certain circumstances; and (4) a public utility recording telephone calls relating to emergencies and service outages in certain circumstances. (NRS 179.410-179.515, 209.419, 704.195)]~~ *Existing law also prohibits the surreptitious listening, monitoring or recording of private conversations engaged in by other persons. (NRS 200.650)*

~~[Sections 1 and]~~ *Section* 4 of this bill ~~[provide an additional exception to the two-party consent requirement set forth in NRS 200.620. Section 4 authorizes]~~ *provides that, after providing notice to the collection agency or collection agent that the telephone call is being recorded and making a statement to that effect on the recording,* a person ~~[to]~~ *may* record any telephone call concerning a debt which is owed or asserted to be owed by the person if the telephone call is initiated by a collection agency or collection agent and received by the person who owes or is alleged to owe the debt. ~~[Section 4 further provides that the person who records the telephone call is not required to obtain the consent of the collection agency or collection agent to record the telephone call or provide notice to the collection agency or collection agent that the telephone call is being recorded.]~~

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

Section 1. ~~[NRS 200.620 is hereby amended to read as follows:~~

~~200.620 1. Except as otherwise provided in NRS 179.410 to 179.515, inclusive, 209.419 and 704.195, *and section 4 of this act*, it is unlawful for any person to intercept or attempt to intercept any wire communication unless:~~

~~(a) The interception or attempted interception is made with the prior consent of one of the parties to the communication; and~~

~~(b) An emergency situation exists and it is impractical to obtain a court order as required by NRS 179.410 to 179.515, inclusive, before the interception, in which event the interception is subject to the requirements of subsection 3. If the application for ratification is denied, any use or disclosure of the information so intercepted is unlawful, and the person who made the interception shall notify the sender and the receiver of the communication that:~~

~~(1) The communication was intercepted; and~~

~~(2) Upon application to the court, ratification of the interception was denied.~~

~~2. This section does not apply to any person, or to the officers, employees or agents of any person, engaged in the business of providing service and facilities for wire communication where the interception or attempted interception is to construct, maintain, conduct or operate the service or facilities of that person.~~

~~3. Any person who has made an interception in an emergency situation as provided in paragraph (b) of subsection 1 shall, within 72 hours of the interception, make a written application to a justice of the Supreme Court or district judge for ratification of the interception. The interception must not be ratified unless the applicant shows that:~~

~~(a) An emergency situation existed and it was impractical to obtain a court order before the interception; and~~

~~(b) Except for the absence of a court order, the interception met the requirements of NRS 179.410 to 179.515, inclusive.~~

~~4. NRS 200.610 to 200.690, inclusive, do not prohibit the recording, and NRS 179.410 to 179.515, inclusive, do not prohibit the reception in evidence, of conversations on wire communications installed in the office of an official law enforcement or fire fighting agency, or a public utility, if the equipment used for the recording is installed in a facility for wire communications or on a telephone with a number listed in a directory, on which emergency calls or requests by a person for response by the law enforcement or fire fighting agency or public utility are likely to be received. In addition, those sections do not prohibit the recording or reception in evidence of conversations initiated by the law enforcement or fire fighting agency or public utility from such a facility or telephone in connection with responding to the original call or request, if the agency or public utility informs the other party that the conversation is being recorded.]~~ *(Deleted by amendment.)*

Sec. 2. ~~[NRS 200.650 is hereby amended to read as follows:~~

~~200.650 Except as otherwise provided in NRS 179.410 to 179.515, inclusive, and 704.195, *and section 4 of this act*, a person shall not intrude upon the privacy of other persons by surreptitiously listening to, monitoring or recording, or attempting to listen to, monitor or record, by means of any mechanical, electronic or other listening device, any private conversation engaged in by the other persons, or disclose the existence, content, substance, purport, effect or meaning of any conversation so listened to, monitored or recorded, unless authorized to do so by one of the persons engaging in the conversation.]~~ *(Deleted by amendment.)*

Sec. 3. ~~[NRS 179.458 is hereby amended to read as follows:~~

~~179.458 The provisions of NRS 179.410 to 179.515, inclusive, do not prohibit the recording of any telephone call by [a]:~~

~~*1.* A public utility pursuant to NRS 704.195[.]~~ *~~; or~~*

~~2. A person authorized to record a telephone call made by a collection agency or collection agent pursuant to section 4 of this act.]~~ *(Deleted by amendment.)*

Sec. 4. Chapter 649 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[A]~~ After providing notice that the telephone conversation will be recorded, a person may record any telephone call that:

(a) Concerns a claim which is owed or asserted to be owed by the person;

(b) Is made by a collection agency or collection agent; and

(c) Is received by the person.

2. A person who records a telephone call pursuant to this section is ~~[not]~~ required to ~~[:~~

~~(a) Obtain the consent of the collection agency or collection agent to record the telephone call; or~~

~~(b) Provide notice to the collection agency or collection agent that the person is recording the telephone call.]~~ make a statement immediately after the recording begins that the telephone call is being recorded.

3. As used in this section, "record" means the acquisition of the contents of a wire communication through the use of a recording device.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 137.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 754.

"SUMMARY—Revises provisions concerning acts of terrorism. (BDR 15-934)"

"AN ACT relating to crimes; increasing the penalty for certain crimes concerning acts of terrorism; making it a crime to deliver a hoax substance that appears to be a weapon of mass destruction or appears to be certain dangerous substances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law makes it a category B felony to engage in certain acts of terrorism. (NRS 202.448) Section 5 of this bill increases the penalty for engaging in such acts of terrorism from imprisonment for a minimum term of 1 year and a maximum term of 6 years to a minimum term of 2 years and a maximum term of 20 years. Section 3 of this bill creates a new crime for delivering a "hoax substance" which is any item that to a reasonable person appears to be a weapon of mass destruction, biological agent, chemical agent, radioactive agent or other lethal agent, any toxin or any delivery system for

use as a weapon . ~~[and imposes the same penalties as for other acts of terrorism.]~~

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Hoax substance" means any item that appears to a reasonable person to be a weapon of mass destruction, biological agent, chemical agent, radioactive agent or other lethal agent, any toxin or any delivery system for use as a weapon.*

Sec. 3. *1. A person shall not, through the use of any means of delivery, including, without limitation, mail, package delivery services, mail couriers or drop payment boxes, disperse or cause to be dispersed any hoax substance with the intent to:*

(a) Injure, intimidate, alarm or cause mental anguish to any person, whether or not any person is actually injured, intimidated, alarmed or caused mental anguish thereby;

(b) Cause any reasonable person to believe that the person was contaminated by or exposed to a biological agent, chemical agent, radioactive agent or other lethal agent, any toxin or any nuclear or explosive substance;

(c) Cause panic or civil unrest, whether or not such panic or civil unrest actually occurs;

(d) Extort or profit thereby, whether or not the extortion is actually successful or any profit actually occurs; or

(e) Interfere with the operations of or cause economic or other damage to any person or business, whether or not such interference or damage actually occurs.

2. ~~[A]~~ Except as otherwise provided in subsection 3, a person who violates any provision of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. Unless a greater penalty is provided by specific statute, if a person violates any provision of subsection 1 and the violation proximately causes the death of, or substantial bodily harm to, any other person, the person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $5,000.

4. In addition to any other penalty, the court shall order a person who violates any provision of subsection 1 to pay restitution to any public agency for any expenses of a response to a hoax substance that arise from the violation.

5. As used in this section:

(a) "Expenses of a response to a hoax substance" includes, without limitation, the reasonable costs incurred by a public agency in making an

appropriate response to or investigation of a hoax substance, including, without limitation, the salary or wages of any person responding to or investigating a hoax substance, the deemed wages of any volunteer of a public agency participating in the response or investigation, the costs for use or operation of any equipment and the costs for the use or expenditure of any resources, fuel or other materials.

(b) "Public agency" means an agency, bureau, board, commission, department or division of the State of Nevada or a political subdivision of the State of Nevada that provides police, fire-fighting, rescue or emergency medical services.

Sec. 4. NRS 202.441 is hereby amended to read as follows:

202.441 As used in NRS 202.441 to 202.448, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 202.4415 to 202.4445, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 202.448 is hereby amended to read as follows:

202.448 1. A person shall not, through the use of any means of oral, written or electronic communication, knowingly make any threat or convey any false information concerning an act of terrorism or the presence, development, manufacture, production, assemblage, transfer, transportation, acquisition, retention, storage, testing, possession, delivery, dispersion, release, discharge or use of any weapon of mass destruction, any biological agent, chemical agent, radioactive agent or other lethal agent or any toxin with the intent to:

(a) Injure, intimidate or alarm any person, whether or not any person is actually injured, intimidated or alarmed thereby;

(b) Cause panic or civil unrest, whether or not such panic or civil unrest actually occurs;

(c) Extort or profit thereby, whether or not the extortion is actually successful or any profit actually occurs; or

(d) Interfere with the operations of or cause economic or other damage to any person or any officer, agency, board, bureau, commission, department, division or other unit of federal, state or local government, whether or not such interference or damage actually occurs.

2. A person who violates any provision of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than ~~[1 year]~~ *2 years* and a maximum term of not more than ~~[6]~~ *20* years, and may be further punished by a fine of not more than $5,000.

3. The provisions of this section do not apply to any act that is committed in a lawful manner and in the course of a lawful business, event or activity.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 143.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 799.

"SUMMARY—Revises provisions relating to the Commission on Ethics. (BDR 23-855)"

"AN ACT relating to the Commission on Ethics; requiring the Commission to render certain opinions within a certain period; increasing the time within which the Executive Director of the Commission is required to complete his investigation of the facts and circumstances relating to certain requests for an opinion; ~~[requiring the Commission to disclose the general status of such a request for an opinion to the person who made the request;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a public officer or employee to request from the Commission on Ethics an opinion interpreting the statutory ethical standards and applying those standards to a particular set of facts and circumstances which directly relate to the propriety of his own past, present or future conduct as an officer or employee. (NRS 281.511) This bill requires the Commission to render the opinion *as soon as practicable or* within 45 days after receiving the request.

Existing law also authorizes certain other persons to request from the Commission an opinion interpreting the statutory ethical standards and applying those standards to a particular set of facts and circumstances. Upon receipt of such a request, the Executive Director of the Commission must investigate the facts and circumstances relating to the request and determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director has 45 days after the receipt of the request to investigate and present his recommendation to a panel of the Commission. (NRS 281.511) This bill increases from 45 days to ~~[120]~~ *60* days the period given the Executive Director to make his investigation and present his recommendation to a panel of the Commission. ~~[This bill also requires the Commission to disclose the general status of such a request for an opinion to the person who made the request.]~~

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

Section 1. NRS 281.511 is hereby amended to read as follows:

281.511 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances ~~[upon]~~ *as soon as practicable or within 45 days after receiving a* request, *whichever is sooner,* on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of his own past, present or future conduct as an officer or employee. He may also request the

Commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of his own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to his future conduct; and

(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

(a) Upon request from a specialized or local ethics committee.

(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:

(1) The request on a form prescribed by the Commission; and

(2) All related evidence deemed necessary by the Executive Director and the panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.

(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

➥ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.

3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The public officer or employee that is the subject of the request may submit to the Executive Director any information relevant to the request. The Executive Director shall complete an investigation and present his recommendation relating to just and sufficient cause to the panel within ~~[45 days]~~ ~~*[120]*~~ *60 days* after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. If the Executive Director determines after an investigation that just and sufficient cause exists for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific evidence that supports his recommendation. If, after an investigation, the Executive Director does not determine that just and sufficient cause exists for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific reasons for his recommendation. Within 15 days after the Executive Director has provided his

recommendation in the matter to the panel, the panel shall make a final determination regarding whether just and sufficient cause exists for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The panel shall not determine that there is just and sufficient cause for the Commission to render an opinion unless the panel has provided the public officer or employee an opportunity to respond to the allegations against him. The panel shall cause a record of its proceedings in each matter to be kept, and such a record must remain confidential until the panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.

4. If the panel determines that just and sufficient cause exists for the Commission to render an opinion requested pursuant to this section, the Commission shall hold a hearing and render an opinion in the matter within 30 days after the determination of just and sufficient cause by the panel, unless the public officer or employee waives this time limit.

5. Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

6. Except as otherwise provided in this subsection, each document in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, the Commission's copy of the request and all materials and information gathered in an investigation of the request, is confidential until the panel determines whether there is just and sufficient cause to render an opinion in the matter. The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 may in writing authorize the Commission to make its files, material and information which are related to the request publicly available.

7. Except as otherwise provided in paragraphs (a) and (b), the proceedings of a panel are confidential until the panel determines whether there is just and sufficient cause to render an opinion. A person who:

(a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:

(1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that he filed with the Commission or the substance of testimony, if any, that he gave before the Commission.

(2) After the panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that he requested an opinion from the Commission.

(b) Gives testimony before the Commission may:

(1) At any time, reveal to a third party the substance of testimony that he gave before the Commission.

(2) After the panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that he gave testimony before the Commission.

8. ~~*[The Commission shall disclose to a person who requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 the general status of his request, including, without limitation, whether the request has been received and an abbreviated summary of the actions that the Commission is taking with regard to the request. The provisions of this subsection do not require the Commission, its officers or members to provide, and do not authorize or entitle a person requesting an opinion to obtain:*~~

~~*(a) Personally identifying information concerning a person other than the requester of the opinion;*~~

~~*(b) Information that is confidential;*~~

~~*(c) Information that is otherwise protected from disclosure by any other provision of federal or state law; or*~~

~~*(d) Information the release of which, as determined by the Executive Director, would interfere with:*~~

~~*(1) The ability of the Executive Director to conduct an investigation;*~~

~~*(2) The ability of a panel to determine whether there is just and sufficient cause for the Commission to render an opinion; or*~~

~~*(3) The ability of the Commission to render an opinion.*~~

~~*9.]*~~ Whenever the Commission holds a hearing pursuant to this section, the Commission shall:

(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;

(b) Allow the person to be represented by counsel; and

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on his own behalf.

➥ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

9. ~~*[10.]*~~ If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the

question to the Commission if he deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

10. ~~[11.]~~ If a person who requests an opinion pursuant to subsection 1 or 2 does not:

(a) Submit all necessary information to the Commission; and

(b) Declare by oath or affirmation that he will testify truthfully,

➥ the Commission may decline to render an opinion.

11. ~~[12.]~~ For good cause shown, the Commission may take testimony from a person by telephone or video conference.

12. ~~[13.]~~ For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

13. ~~[14.]~~ A meeting or hearing that the Commission or the panel holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission and the panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

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

Senator Beers moved the adoption of the amendment.

Remarks by Senator Beers.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Beers moved that Assembly Bill No. 147 be taken from the Second Reading File and placed on the Secretary's desk.

Remarks by Senator Beers.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 176.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 826.

"SUMMARY—Provides for the automatic transfer of ownership of certain vehicles and motorboats to the designated beneficiary on the death of the owner. (BDR 43-425)"

"AN ACT relating to property; providing for the automatic transfer of ownership of certain vehicles and motorboats to designated beneficiaries on the death of the owner of such a vehicle or motorboat; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for nonprobate transfers of certain property from the owner to a named beneficiary, including, without limitation, nonprobate transfers of registered securities and securities registered in beneficiary form. (NRS 111.480-111.650) Section 1 of this bill amends chapter 482 of NRS which governs the licensing and registration of motor vehicles to provide that certain owners who hold certificates of title to registered motor vehicles, trailers or semitrailers may apply to the Department of Motor Vehicles for a certificate of title in beneficiary form which directs the Department to transfer the title to the designated beneficiary on the death of the present owner or on the deaths of all joint owners. Section 1 also provides procedures for obtaining and revoking a certificate of title in beneficiary form. In addition, section 1 specifies that a transfer of ownership made by a certificate of title in beneficiary form is not subject to the statutes generally governing probate matters.

Section 5 of this bill similarly amends chapter 488 of NRS which governs the licensing and registration of motorboats so that certain owners who hold certificates of ownership to numbered and titled motorboats may apply to the Department of Wildlife for a certificate of ownership in beneficiary form which directs the Department to transfer the ownership to the designated beneficiary on the death of the present owner or on the deaths of all joint owners. Section 5 also provides procedures for obtaining and revoking a certificate of ownership in beneficiary form. Further, section 5 exempts transfers made pursuant to such certificates of ownership from the statutes which generally govern probate matters.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The owner or joint owners of a motor vehicle, trailer or semitrailer may request the Department to issue a certificate of title in beneficiary form for the motor vehicle, trailer or semitrailer, as applicable, which includes a directive to the Department to transfer the certificate of title upon the death of the owner or upon the death of all joint owners to a beneficiary named on the face of the certificate of title.

2. A request made pursuant to subsection 1 must be submitted on an application made available by the Department and accompanied by the fee for the issuance of a certificate of title.

3. A certificate of title in beneficiary form may not be issued to a person who holds his interest in a motor vehicle, trailer or semitrailer as a tenant in common with another person.

4. A certificate of title in beneficiary form must include after the name of the owner or after the names of joint owners the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

5. During the lifetime of a sole owner or before the death of the last surviving joint owner:

(a) The signature or consent of the beneficiary is not required for any transaction relating to a motor vehicle, trailer or semitrailer for which a certificate of title in beneficiary form has been issued; and

(b) The certificate of title in beneficiary form may be revoked or the beneficiary changed at any time by:

(1) Sale of the motor vehicle, trailer or semitrailer with proper assignment and delivery of the certificate of title to another person; or

(2) Filing an application with, and paying a fee to, the Department to reissue the certificate of title with no designation of a beneficiary or with the designation of a different beneficiary.

6. The interest of the beneficiary in a motor vehicle, trailer or semitrailer on the death of the sole owner or on the death of the last surviving joint owner is subject to any contract of sale, assignment or ownership or security interest to which the owner or owners of the motor vehicle, trailer or semitrailer were subject during their lifetime.

7. Except as otherwise provided in paragraph (b) of subsection 5, the designation of a beneficiary in a certificate of title in beneficiary form may not be changed or revoked by will, any other instrument or a change in circumstances, or otherwise changed or revoked.

8. The Department shall, upon:

(a) Proof of death of one of the owners, of two or more joint owners or of a sole owner;

(b) Surrender of the outstanding certificate of title in beneficiary form; and

(c) Application and payment of the fee for a certificate of title,

➥ issue a new certificate of title for the motor vehicle, trailer or semitrailer to the surviving owner or owners or, if none, to the beneficiary, subject to any security interest.

9. For the purposes of complying with the provisions of subsection 8, the Department may rely on a death certificate, record or report that constitutes prima facie evidence of death.

10. The transfer on death of a motor vehicle, trailer or semitrailer pursuant to this section is not considered as testamentary and is not subject to administration pursuant to the provisions of title 12 of NRS.

11. As used in this section:

(a) "Beneficiary" means a person or persons designated to become the owner or owners of a motor vehicle, trailer or semitrailer on the death of the preceding owner or owners.

(b) "Certificate of title in beneficiary form" means a certificate of title of a motor vehicle, trailer or semitrailer that indicates the present owner or owners of the motor vehicle, trailer or semitrailer and designates a beneficiary.

Sec. 2. NRS 482.245 is hereby amended to read as follows:

482.245 1. The certificate of registration must contain upon the face thereof the date issued, the registration number assigned to the vehicle, the

name and address of the registered owner, the county where the vehicle is to be based unless it is deemed to have no base, a description of the registered vehicle and such other statement of facts as may be determined by the Department.

2. The certificate of title must contain upon the face thereof the date issued, the name and address of the registered owner and the owner or lienholder, if any, a description of the vehicle, any entries required by NRS 482.423 to 482.428, inclusive, a reading of the vehicle's odometer as provided to the Department by the person making the sale or transfer, the word "rebuilt" if it is a rebuilt vehicle *, the information required pursuant to subsection 3 of section 1 of this act if the certificate of title is a certificate of title in beneficiary form pursuant to section 1 of this act* and such other statement of facts as may be determined by the Department. The reverse side of the certificate of title must contain forms for notice to the Department of a transfer of the title or interest of the owner or lienholder and application for registration by the transferee. If a new certificate of title is issued for a vehicle, it must contain the same information as the replaced certificate, except to the extent that the information has changed after the issuance of the replaced certificate. Except as otherwise required by federal law, the certificate of title of a vehicle which the Department knows to have been stolen must not contain any statement or other indication that the mileage specified in the certificate or registered on the odometer is anything other than the actual mileage traveled by the vehicle, in the absence of proof that the odometer of the vehicle has been disconnected, reset or altered.

Sec. 3. NRS 482.400 is hereby amended to read as follows:

482.400 1. Except as otherwise provided in this subsection and subsections 2, 5 and 6, *and section 1 of this act,* upon a transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the provisions of this chapter, the person or persons whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of title issued for the vehicle, together with the residence address of the transferee, in the appropriate spaces provided upon the reverse side of the certificate. The Department may, by regulation, prescribe alternative methods by which a signature may be affixed upon a manufacturer's certificate of origin or a manufacturer's statement of origin issued for a vehicle. The alternative methods must ensure the authenticity of the signatures.

2. The Department shall provide a form for use by a dealer for the transfer of ownership of a vehicle. The form must be produced in a manner which ensures that the form may not be easily counterfeited. Upon the attachment of the form to a certificate of title issued for a vehicle, the form becomes a part of that certificate of title. The Department may charge a fee not to exceed the cost to provide the form.

3. Except as otherwise provided in subsections 4, 5 and 6, the transferee shall immediately apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

4. If the transferee is a dealer who intends to resell the vehicle, he is not required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is resold, the purchaser shall apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

5. If the transferee consigns the vehicle to a wholesale vehicle auctioneer:

(a) The transferee shall, within 30 days after that consignment, provide the wholesale vehicle auctioneer with the certificate of title for the vehicle, executed as required by subsection 1, and any other documents necessary to obtain another certificate of title for the vehicle.

(b) The wholesale vehicle auctioneer shall be deemed a transferee of the vehicle for the purposes of subsection 4. The wholesale vehicle auctioneer is not required to comply with subsection 1 if he:

(1) Does not take an ownership interest in the vehicle;

(2) Auctions the vehicle to a vehicle dealer or automobile wrecker who is licensed as such in this or any other state; and

(3) Stamps his name, his identification number as a vehicle dealer and the date of the auction on the certificate of title and the bill of sale and any other documents of transfer for the vehicle.

6. A charitable organization which intends to sell a vehicle which has been donated to the organization must deliver immediately to the Department or its agent the certificate of registration and the license plate or plates for the vehicle, if the license plate or plates have not been removed from the vehicle. The charitable organization must not be required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is sold by the charitable organization, the purchaser shall apply for registration as provided in NRS 482.215 and pay the governmental services taxes due.

7. As used in this section, "wholesale vehicle auctioneer" means a dealer who:

(a) Is engaged in the business of auctioning consigned motor vehicles to vehicle dealers or automobile wreckers, or both, who are licensed as such in this or any other state; and

(b) Does not in the ordinary course of his business buy, sell or own the vehicles he auctions.

Sec. 4. NRS 482.420 is hereby amended to read as follows:

482.420 1. Except as *otherwise* provided in subsection 2, in the event of the transfer by operation of law of the title or interest of an owner in and to a vehicle as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performing the terms of a lease or executory sales contract, *transfer on death pursuant to section 1*

of this act, or otherwise, the registration thereof ~~[shall expire]~~ *expires* and the vehicle ~~[shall]~~ *must* not be operated upon the highways until and unless the person entitled thereto shall apply for and obtain the registration thereof.

2. An administrator, executor, trustee or other representative of the owner, or a sheriff or other officer, or any person repossessing the vehicle under the terms of a conditional sales contract, lease ~~[,]~~ or other security agreement, or the assignee or legal representative of any such person, may operate or cause to be operated any vehicle upon the highways for a distance ~~[of not exceeding]~~ *not to exceed* 75 miles from the place of repossession or place where formerly kept by the owner to a garage, warehouse or other place of keeping or storage, either upon displaying upon such vehicle the number plate issued to the former owner or without a number plate attached thereto but under written permission first obtained from the Department or the local police authorities having jurisdiction over such highways, and upon displaying in plain sight a placard bearing the name and address of the person authorizing and directing such movement and plainly readable from a distance of 100 feet during daylight.

Sec. 5. Chapter 488 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The owner or joint owners of a motorboat may request the Department to issue a certificate of ownership in beneficiary form for the motorboat which includes a directive to the Department to transfer the certificate of ownership upon the death of the owner or upon the death of all joint owners to a beneficiary named on the face of the certificate of ownership.

2. A request made pursuant to subsection 1 must be submitted on an application made available by the Department and accompanied by the fee for the issuance of a certificate of ownership.

3. A certificate of ownership in beneficiary form may not be issued to a person who holds his interest in a motorboat as a tenant in common with another person.

4. A certificate of ownership in beneficiary form must include after the name of the owner, or after the names of joint owners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

5. During the lifetime of a sole owner or before the death of the last surviving joint owner:

(a) The signature or consent of the beneficiary is not required for any transaction relating to a motorboat for which a certificate of ownership in beneficiary form has been issued; and

(b) The certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time by:

(1) Sale of the motorboat with proper assignment and delivery of the certificate of ownership to another person; or

(2) Filing an application with, and paying a fee to, the Department to reissue the certificate of ownership with no designation of a beneficiary or with the designation of a different beneficiary.

6. The interest of the beneficiary in a motorboat on the death of the sole owner or on the death of the last surviving joint owner is subject to any contract of sale, assignment or ownership or security interest to which the owner or owners of the motorboat were subject during their lifetime.

7. Except as otherwise provided in paragraph (b) of subsection 5, the designation of a beneficiary in a certificate of ownership in beneficiary form may not be changed or revoked by will, any other instrument or a change in circumstances, or otherwise changed or revoked.

8. The Department shall, upon:

(a) Proof of death of one of the owners, of two or more joint owners or of a sole owner;

(b) Surrender of the outstanding certificate of ownership in beneficiary form; and

(c) Application and payment of the fee for a certificate of ownership,

➥ issue a new certificate of ownership for the motorboat to the surviving owner or owners or, if none, to the beneficiary, subject to any security interest.

9. For the purposes of complying with the provisions of subsection 8, the Department may rely on a death certificate, record or report that constitutes prima facie evidence of death.

10. The transfer on death of a motorboat pursuant to this section is not considered as testamentary and is not subject to administration pursuant to the provisions of title 12 of NRS.

11. As used in this section:

(a) "Beneficiary" means a person or persons designated to become the owner or owners of a motorboat on the death of the preceding owner or owners.

(b) "Certificate of ownership in beneficiary form" means a certificate of ownership of a motorboat that indicates the present owner or owners of the motorboat and designates a beneficiary.

Sec. 6. NRS 488.1793 is hereby amended to read as follows:

488.1793 Except as otherwise provided for the creation or transfer of a security interest ~~[,]~~ *or the transfer on death of a certificate of ownership pursuant to section 5 of this act,* no transfer of title to or any interest in any motorboat required to be numbered under this chapter is effective until one of the following conditions is fulfilled:

1. The transferor has properly endorsed and delivered the certificate of ownership and has delivered the certificate of number to the transferee as provided in this chapter, and the transferee has, within the prescribed time, delivered the documents to the Department or placed them in the United States mail addressed to the Department with the transfer fee.

2. The transferor has delivered to the Department or placed in the United States mail addressed to the Department the appropriate documents for the transfer of ownership pursuant to the sale or transfer.

Sec. 7. NRS 488.1801 is hereby amended to read as follows:

488.1801 ~~[Any]~~ *Except for transfers to a beneficiary pursuant to the provisions of section 5 of this act, any* owner of any motorboat numbered under this chapter who sells or transfers his title or any interest in the motorboat shall within 10 days notify the Department of the sale or transfer and furnish the following information:

1. The name and address of the legal owner and transferee; and

2. Such description of the motorboat as may be required by the Department.

Sec. 8. NRS 488.1807 is hereby amended to read as follows:

488.1807 ~~[Upon]~~ *Except for transfers to a beneficiary pursuant to the provisions of section 5 of this act, upon* transfer of the title or any interest of any legal owner in any motorboat numbered under this chapter, the transferor shall write his signature, and the transferee shall write his signature and address, in the appropriate spaces provided upon the reverse side of the certificate of ownership issued for such motorboat.

Sec. 9. This act becomes effective on January 31, 2008.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 194.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 763.

"SUMMARY—Makes various changes to provisions regarding victims of domestic violence and sexual assault. (BDR 3-1055)"

"AN ACT relating to victims of crime; prohibiting an adverse party named in an extended order for protection against domestic violence from possessing or having under his custody or control a firearm; making various changes to provisions regarding orders for protection against domestic violence; expanding the persons against whom domestic violence may be committed; revising provisions regarding the testing of certain persons accused of committing certain crimes for exposure to the human immunodeficiency virus and commonly contracted sexually transmitted diseases; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth certain unlawful acts which constitute domestic violence when committed against certain specified persons. (NRS 33.018) Existing law authorizes a court to issue a temporary or extended order for protection to protect a person listed in that statute from domestic violence. (NRS 33.020, 33.030) Section 5 of this bill expands the list of persons against whom domestic violence may be committed to include a person who has been appointed the custodian or legal guardian of a child.

Section 2 of this bill authorizes the court, when issuing an extended order, to include a requirement that the adverse party surrender any firearms possessed by him or under his custody or control and that he not possess or have under his custody or control any firearm while the order is in effect. Section 2 requires the court to consider certain factors in deciding whether to include such provisions in an extended order and provides for a limited exception that may be granted if the adverse party can establish that the use or possession of a firearm is an integral part of his employment and that the employer will provide for the storage of any such firearm during any period that the adverse party is not working. Section 3 of this bill establishes the procedures governing the surrender, sale or transfer of any firearm possessed or under the custody or control of an adverse party subject to such an extended order. Section 2 makes it a gross misdemeanor for an adverse party to violate those provisions of an extended order.

Section 6 of this bill authorizes a court, when granting an extended order, to provide for the support of a minor child for whom a guardian has been appointed or who has been placed in protective custody and to pay compensation to the applicant for lost earnings and expenses incurred by the applicant in attending any hearing concerning an application for an extended order. (NRS 33.030)

Section 7 of this bill requires a law enforcement officer to inform an adverse party who violates an order for protection against domestic violence of the date and time set for a hearing on an application for an extended order in certain circumstances. (NRS 33.070)

Existing federal law requires, as a condition to receiving certain federal grants, that states provide by law for certain procedures concerning the testing of a defendant who is arrested for certain crimes involving sexual conduct. (42 U.S.C. § 3796hh(d)) Section 9 of this bill revises the procedures for testing certain alleged criminals who commit a sexual assault and victims of sexual assault for the human immunodeficiency virus and other commonly contracted sexually transmitted diseases to comply with those federal requirements. (NRS 441A.320)

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

Section 1. Chapter 33 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. A court may include in an extended order issued pursuant to NRS 33.030:*

(a) A requirement that the adverse party surrender, sell or transfer any firearm in his possession or under his custody or control in the manner set forth in section 3 of this act; and

(b) A prohibition on the adverse party against possessing or having under his custody or control any firearm while the order is in effect.

2. In determining whether to include the provisions set forth in subsection 1 in an extended order, the court must consider, without limitation, whether the adverse party:

(a) Has a documented history of domestic violence;

(b) Has used or threatened to use a firearm to injure or harass the applicant, a minor child or any other person; and

(c) Has used a firearm in the commission or attempted commission of any crime.

3. If a court includes the provisions set forth in subsection 1 in an extended order, the court may include a limited exception from the prohibition to possess or have under his custody or control any firearm if the adverse party establishes that:

(a) The adverse party is employed by an employer who requires the adverse party to use or possess a firearm as an integral part of his employment; and

(b) The employer will provide for the storage of any such firearm during any period when the adverse party is not working.

4. An adverse party who violates any provision included in an extended order pursuant to this section concerning the surrender, sale, transfer, possession, custody or control of a firearm is guilty of a gross misdemeanor. If the court includes any such provision in an extended order, the court must include in the order a statement that violation of such a provision in the order is a gross misdemeanor.

Sec. 3. *1. If a court orders an adverse party to surrender any firearm pursuant to section 2 of this act, the adverse party shall, not later than 24 hours after service of the order:*

(a) Surrender any firearm in his possession or under his custody or control to the appropriate local law enforcement agency designated by the court in the order;

(b) Surrender any firearm in his possession or under his custody or control to a person designated by the court in the order; or

(c) Sell or transfer any firearm in his possession or under his custody or control to a licensed firearm dealer.

2. If the court orders the adverse party to surrender any firearm to a local law enforcement agency pursuant to paragraph (a) of subsection 1, the law enforcement agency shall provide the adverse party with a receipt which includes a description of each firearm surrendered and the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide the receipt to the court.

3. If the court orders the adverse party to surrender any firearm to a person designated by the court pursuant to paragraph (b) of subsection 1, the adverse party shall, not later than ~~[48]~~ 72 hours or 1 business day, whichever is later, after he surrenders any firearm to such person, provide to the court and the appropriate local law enforcement agency the name and

address of the person designated in the order and a written description of each firearm surrendered to such person.

4. If the adverse party sells or transfers any firearm to a licensed firearm dealer that is subject to an order pursuant to paragraph (c) of subsection 1, the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after such sale or transfer, provide to the court and the appropriate local law enforcement agency a receipt of such sale or transfer and a written description of each firearm sold or transferred.

5. If there is probable cause to believe that the adverse party has not surrendered, sold or transferred any firearm in his possession or under his custody or control within 24 hours after service of the order, the court may issue and deliver to any law enforcement officer a search warrant which authorizes the law enforcement officer to enter and search any place where there is probable cause to believe any firearm is located and seize the firearm.

6. A local law enforcement agency may charge and collect a fee from the adverse party for the collection and storage of a firearm pursuant to this section. The fee must not exceed the cost incurred by the local law enforcement agency to provide the service.

Sec. 4. NRS 33.017 is hereby amended to read as follows:

33.017 As used in NRS 33.017 to 33.100, inclusive, *and sections 2 and 3 of this act,* unless the context otherwise requires:

1. "Extended order" means an extended order for protection against domestic violence.

2. "Temporary order" means a temporary order for protection against domestic violence.

Sec. 5. NRS 33.018 is hereby amended to read as follows:

33.018 1. Domestic violence occurs when a person commits one of the following acts against or upon his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons , ~~[or]~~ his minor child ~~[:]~~ *or any person who has been appointed the custodian or legal guardian for his minor child:*

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(f) A false imprisonment.

(g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

2. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 6. NRS 33.030 is hereby amended to read as follows:

33.030 1. The court by a temporary order may:

(a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;

(b) Exclude the adverse party from the applicant's place of residence;

(c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;

(d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant; and

(e) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

(a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary; and

(b) Order the adverse party to:

(1) Avoid or limit communication with the applicant or minor child;

(2) Pay rent or make payments on a mortgage on the applicant's place of residence ~~[or pay]~~ *;*

(3) Pay for the support of the applicant or minor child *, including, without limitation, support of a minor child for whom a guardian has been appointed pursuant to chapter 159 of NRS or a minor child who has been placed in protective custody pursuant to chapter 432B of NRS,* if he is found to have a duty to support the applicant or minor child; ~~[and~~

~~(3)]~~ *(4)* Pay all costs and fees incurred by the applicant in bringing the action ~~[.]~~ *; and*

(5) Pay monetary compensation to the applicant for lost earnings and expenses incurred as a result of the applicant attending any hearing concerning an application for an extended order.

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order

in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if the arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm.

Sec. 7. NRS 33.070 is hereby amended to read as follows:

33.070 1. Every temporary or extended order must include a provision ordering any law enforcement officer to arrest an adverse party if the officer has probable cause to believe that the adverse party has violated any provision of the order. The law enforcement officer may make an arrest with or without a warrant and regardless of whether the violation occurs in his presence.

2. If a law enforcement officer cannot verify that the adverse party was served with a copy of the application and order, he shall:

(a) Inform the adverse party of the specific terms and conditions of the order;

(b) Inform the adverse party that he now has notice of the provisions of the order and that a violation of the order will result in his arrest; ~~[and]~~

(c) Inform the adverse party of the location of the court that issued the original order and the hours during which the adverse party may obtain a copy of the order ~~[.]~~ *; and*

(d) Inform the adverse party of the date and time set for a hearing on an application for an extended order, if any.

3. Information concerning the terms and conditions of the order, the date and time of the notice provided to the adverse party and the name and identifying number of the officer who gave the notice must be provided in writing to the applicant and noted in the records of the law enforcement agency and the court.

Sec. 8. NRS 441A.220 is hereby amended to read as follows:

441A.220 All information of a personal nature about any person provided by any other person reporting a case or suspected case of a communicable disease, or by any person who has a communicable disease, or as determined by investigation of the health authority, is confidential medical information and must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except as follows:

1. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.

2. In a prosecution for a violation of this chapter.

3. In a proceeding for an injunction brought pursuant to this chapter.

4. In reporting the actual or suspected abuse or neglect of a child or elderly person.

5. To any person who has a medical need to know the information for his own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.

6. If the person who is the subject of the information consents in writing to the disclosure.

7. Pursuant to subsection ~~[2]~~ *4* of NRS 441A.320 or NRS 629.069.

8. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.

9. To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.

10. If the disclosure is authorized or required by specific statute.

Sec. 9. NRS 441A.320 is hereby amended to read as follows:

441A.320 1. ~~[As soon as practicable after:~~

~~(a) A person is arrested for the commission of a crime; or~~

~~(b) A minor is detained for the commission of an act which, if committed by a person other than a minor would have constituted a crime,~~

~~➥ which]~~ *If* the *alleged* victim or a witness *to a crime* alleges *that the crime* involved the sexual penetration of the victim's body, the health authority shall *perform the tests set forth in subsection 2 as soon as practicable after the arrest of the person alleged to have committed the crime, but not later than 48 hours after the person is charged with the crime by indictment or information, unless the person alleged to have committed the crime is a child who will be adjudicated in juvenile court and then not later than 48 hours after the petition is filed with the juvenile court alleging that the child is delinquent for committing such an act.*

2. If the health authority is required to perform tests pursuant to subsection 1, it must test a specimen obtained from the arrested person ~~[or detained minor]~~ for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease, regardless of whether he or, if ~~[a detained minor,]~~ *the person is a child,* his parent or guardian consents to providing the specimen. The agency that has custody of the arrested person ~~[or detained minor]~~ shall obtain the specimen and submit it to the health authority for testing. The health authority shall perform the test in accordance with generally accepted medical practices.

~~[2. The]~~

3. In addition to the test performed pursuant to subsection 2, the health authority shall perform such follow-up tests for the human immunodeficiency virus as may be deemed medically appropriate.

4. As soon as practicable, the health authority shall disclose the results of all tests performed pursuant to subsection ~~[1]~~ *2 or 3* to:

(a) The victim or to the victim's parent or guardian if the victim is a ~~[minor;]~~ *child;* and

(b) The arrested person and, if ~~[a minor is detained,]~~ *the person is a child,* to his parent or guardian.

~~[3.]~~ *5.* If the health authority determines, from the results of a test performed pursuant to subsection ~~[1,]~~ *2 or 3,* that a victim of sexual assault may have been exposed to the human immunodeficiency virus or any commonly contracted sexually transmitted disease, it shall, at the request of the victim, provide him with:

(a) An examination for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines he may have been exposed;

(b) Counseling regarding the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines he may have been exposed; and

(c) A referral for health care and other assistance,

➥ as appropriate.

~~[4.]~~ *6.* If the court in:

(a) A criminal proceeding determines that a person has committed a crime; or

(b) A proceeding conducted pursuant to title 5 of NRS determines that a ~~[minor]~~ *child* has committed an act which, if committed by ~~[a person other than a minor,]~~ *an adult,* would have constituted a crime,

➥ involving the sexual penetration of a victim's body, the court shall, upon application by the health authority, order that ~~[minor]~~ *child* or other person to pay any expenses incurred in carrying out this section with regard to that ~~[minor]~~ *child* or other person and that victim.

~~[5.]~~ *7.* The Board shall adopt regulations identifying, for the purposes of this section, sexually transmitted diseases which are commonly contracted.

~~[6.]~~ *8.* As used in this section:

(a) "Sexual assault" means a violation of NRS 200.366.

(b) "Sexual penetration" has the meaning ascribed to it in NRS 200.364.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 209.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 712.

"SUMMARY—Makes various changes regarding the imposition and administration of property taxes ~~[.]~~ *and requires a local government to make certain payments in lieu of taxes for property it acquires outside of its boundaries.* (BDR 32-469)"

"AN ACT relating to the taxation of property; *requiring a local government to make payments in lieu of and equal to property taxes on any property it owns outside of its boundaries; requiring a local government to make payments in lieu of and equal to transfer taxes on real property that it acquires outside of its boundaries;* revising the provisions governing certain exemptions from taxes and appeals by taxpayers; revising certain requirements for the assessment of common-interest communities; revising the provisions governing the calculation of certain partial abatements of taxes and the collection of taxes following certain fluctuations in taxable value; requiring the Committee on Local Government Finance to adopt regulations for the allocation of certain reductions in revenue resulting from the partial abatement of taxes; providing limitations upon certain requests for the waiver of interest and penalties imposed for the late payment of taxes; ~~[repealing]~~ *postponing* the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Local governmental agencies are, as a general rule, exempt from taxation. (NRS 361.060, 375.090) Section 1 of this bill would require a local government to make payments in lieu of taxes on property it owns outside of the geographic boundaries of the local government. Section 1 also would require a local government to make payments in lieu of real property transfer taxes on property that it acquires outside of its geographic boundaries. The payments would equal the amount of the taxes that otherwise would be imposed and would be treated for all purposes in the same manner as revenue from taxation.

Existing law requires each county assessor to provide certain information regarding property taxes on the Internet. (NRS 361.0445) Section ~~[1]~~ *2* of this bill authorizes a county assessor to disseminate, by additional means, certain information to the public concerning the taxation of property.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) Section ~~[2]~~ *3* of this bill simplifies the administration of this exemption by removing any calculation of the value of such a qualified system from the determination of the assessed value of a building to which the exemption applies.

Existing law provides partial exemptions from property taxes for the property of surviving spouses, blind persons, veterans, disabled veterans and certain veterans' organizations, and provides for annual increases in those exemptions beginning with the 2006-2007 Fiscal Year based upon the

increase in the Consumer Price Index from July 2004. (NRS 361.080, 361.085, 361.090, 361.091, 361.095) Sections ~~[3-7]~~ *4-8* of this bill provide for the commencement of those annual increases during the 2005-2006 Fiscal Year based upon the increase in the Consumer Price Index from July 2003.

Section ~~[7.5]~~ *9* of this bill provides an exemption from property taxes for certain property held by the Archaeological Conservancy.

Section ~~[8]~~ *10* of this bill repeals a $5,000 limitation on the amount of an exemption from property taxes applicable to the funds, furniture, paraphernalia and regalia of certain lodges and other charitable organizations. (NRS 361.135)

Existing law requires the filing of claims for personal tax exemptions on real property, and the initial claim of an organization for a tax exemption on real property, to be filed on or before June 15. (NRS 361.155) Section ~~[9]~~ *11* of this bill extends that deadline to July 5 for real property acquired after June 15 and before July 1.

Existing law provides for the assessment of property taxes for a common-interest community on the community units and not on the common elements of the community. (NRS 361.233) Section ~~[10]~~ *12* of this bill specifies the methodology for determining the taxable value of a parcel that includes such a community unit and clarifies the definitions of "community unit" and "common elements" for this purpose.

Existing law allows taxpayers to appeal the amount of certain assessments of their property to the State Board of Equalization. (NRS 361.360) Section ~~[11]~~ *13* of this bill limits the effect of a change in assessment resulting from such an appeal to the fiscal year for which the assessment was made.

~~[Under existing law, a property owner may protest the payment of taxes claimed to be in excess of the amount justly due and, if the State Board of Equalization denies relief, commence a legal proceeding in any county of this State to recover any overpayment. (NRS 361.420) Existing law authorizes a property owner to consolidate similar suits regarding property in more than one county into a single legal action. (NRS 361.435) Sections 12 and 13 of this bill clarify that these proceedings consist of a judicial review of the decision of the State Board of Equalization and limit the locations where these proceedings may be brought.]~~

Existing law provides for a generally applicable partial abatement of the property taxes levied on property for which an assessed valuation has previously been established or on a remainder parcel of property, based upon the average change in the assessed valuation of property in the county over the last 10 years or twice the increase in the Consumer Price Index for the last year, whichever is greater. (NRS 361.4722) Section ~~[15]~~ *17* of this bill ensures that this partial abatement cannot be less than zero nor greater than 8 percent.

Existing law exempts from certain partial abatements of property taxes certain increases in the taxable value of property following large fluctuations

in that value and requires the collection of the resulting taxes due over a period of 3 years. (NRS 361.4725) Section ~~[19]~~ *21* of this bill allows the collection of the amount due in a single year if that amount does not exceed $100 and authorizes the Nevada Tax Commission to exempt from collection any amount which is less than the cost of collection.

Existing law provides formulas for the allocation of reductions in revenue resulting from certain partial abatements of property taxes applicable to property for which the tax rate increases and authorizes the Committee on Local Government Finance to adopt regulations for the administration and interpretation of those formulas. (NRS 361.473, 361.4731, 361.4733) Section ~~[23]~~ *25* of this bill requires the Committee to adopt such regulations as it determines to be appropriate, in accordance with certain specified principles, for the allocation of reductions in revenue resulting from those partial abatements of property taxes. Section ~~[29]~~ *31* of this bill ratifies the regulations previously adopted by the Committee and requires the adoption of additional regulations not later than December 31, 2007. Section ~~[28]~~ *30* of this bill repeals the existing formulas after the adoption of the additional regulations.

Existing law allows a taxpayer to petition the tax receiver for the review of a determination regarding the applicability of certain partial abatements from property taxes. (NRS 361.4734) Section ~~[25]~~ *27* of this bill requires the submission of the petition on or before January 15 of the fiscal year for which the determination is effective.

Existing law authorizes a county treasurer or county assessor to waive all or part of the interest or penalty due from a person who fails to make a timely payment of property taxes as a result of circumstances beyond his control and who files a statement setting forth the facts of his claim. (NRS 361.4835) Section ~~[26]~~ *28* of this bill requires a person seeking such relief to pay the amount of the taxes due and file the statement within 30 days after that payment is made.

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) ~~[Sections 27 and 28]~~ *Section 29* of this bill ~~[provide]~~ *provides* for the continuation of this funding *during the next biennium* by ~~[repealing]~~ *postponing* its prospective expiration ~~[on July 1, 2007.]~~ *until June 30, 2009.*

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

Section 1. *Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. Except as otherwise provided in this section, if a local government owns property outside of its geographic boundaries, the local government shall make payments in lieu of and equal to all state and local taxes on the property from which the local government is exempt but for which the owner

of the property would be liable if the property were not owned by a governmental entity.

2. Except as otherwise provided in this section, if a local government acquires real property outside of its geographic boundaries, the local government shall make payments in lieu of and equal to all taxes on the transfer of real property from which the local government is exempt but for which the owner of the property would be liable if the property were not acquired by a governmental entity.

3. For the purpose of calculating any allocation or apportionment of money for distribution among local governments pursuant to a formula required by state law which is based partially or entirely on the assessed valuation of taxable property:

(a) The property of a local government for which payments in lieu of taxes are made pursuant to subsection 1 shall be deemed to constitute taxable property to the same extent as if the property were not owned by a governmental entity;

(b) The assessed valuation of the property for which payments in lieu of taxes are made must be included in that calculation; and

(c) The payments required by subsection 1 in lieu of any taxes that would otherwise be required on the basis of the assessed valuation of that property shall be deemed to constitute payments of those taxes.

4. The payments in lieu of taxes required by this section are due at the same time and must be collected, accounted for and distributed in the same manner as those taxes would be due, collected, accounted for and distributed if the property were not owned or acquired by a governmental entity, except that no lien attaches upon any property or money of the local government by virtue of any failure to make all or any part of those payments. The local government may contest the validity and amount of any payment in lieu of a tax to the same extent as if that payment were a payment of the tax itself. The payments in lieu of taxes must be reduced if and to the extent that such a contest is successful.

5. The provisions of this section do not:

(a) Apply to the acquisition by a local government of property owned by another governmental entity, except property owned by another local government for which any payments in lieu of state or local taxes were required before its acquisition.

(b) Require a local government to make any payments in lieu of taxes to the extent that the making of those payments would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that property or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(c) Require a local government to duplicate any payments in lieu of taxes required pursuant to NRS 244A.755, 360.825 or 360.830.

(d) Apply to local governments which have entered into an interlocal agreement to the contrary.

(e) Apply with respect to such property concerning which the governing body of the local government in which the property is located has adopted a resolution providing that the provisions of this section do not apply.

6. As used in this section, "local government" means any city, county, district or other political subdivision of this State, including a political subdivision created by cooperative agreement.

~~[Section 1.]~~ *Sec. 2.* Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A county assessor may, by regular mail, electronic means or any other means the assessor deems appropriate, disseminate information to the public concerning the taxation of property, including, without limitation, information relating to the valuation and assessment of property, exemptions from taxation, the declaration of a homestead and programs for the assistance of senior citizens.

2. Any information provided pursuant to subsection 1 must, to the extent practicable, be in a form that is easily understood and readily accessible to the public.

~~[Sec. 2.]~~ *Sec. 3.* NRS 361.079 is hereby amended to read as follows:

361.079 1. Except as otherwise provided in subsection 2, ~~[for any assessment made on or after July 1, 1983, any value added by]~~ *the value of* a qualified system must ~~[be excluded from]~~ *not be included in* the assessed value of ~~[the building regardless of the date the system was installed.~~

~~2. Value]~~ *a building.*

2. Any value added by a qualified system must ~~[not be excluded from]~~ *be included in* the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption *pursuant to NRS 361.045 to 361.159, inclusive,* from the taxes imposed by this chapter.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

(a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

➥ which conforms to standards established by regulation of the Department.

~~[Sec. 3.]~~ *Sec. 4.* NRS 361.080 is hereby amended to read as follows:

361.080 1. The property of surviving spouses, not to exceed the amount of $1,000 assessed valuation, is exempt from taxation, but no such

exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State to the same family.

2. For the purpose of this section, property in which the surviving spouse has any interest shall be deemed the property of the surviving spouse.

3. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of this State and that the exemption has been claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

6. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

~~[Sec. 4.]~~ *Sec. 5.* NRS 361.085 is hereby amended to read as follows:

361.085 1. The property of all blind persons, not to exceed the amount of $3,000 of assessed valuation, is exempt from taxation, including community property to the extent only of the blind person's interest therein, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State on account of the same blind person.

2. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of the State of Nevada who meets all the other requirements for the exemption and that the exemption is not claimed in any other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

3. Upon first claiming the exemption in a county , the claimant shall furnish to the assessor a certificate of a licensed physician setting forth that he has examined the claimant and has found him to be a blind person.

4. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

5. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

6. As used in this section, "blind person" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20°.

~~[Sec. 5.]~~ *Sec. 6.* NRS 361.090 is hereby amended to read as follows:

361.090 1. The property, to the extent of $2,000 assessed valuation, of any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 continuous days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(c) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the government of the United States, regardless of the number of days served on active duty,

➥ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first $2,000 assessed valuation of property in which an applicant has any interest shall be deemed the property of the applicant.

3. The exemption may be allowed only to a claimant who files an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be filed at any time by a person claiming exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county in this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Persons in actual military service are exempt during the period of such service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to such persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his behalf during the period of such service by any person having knowledge of the facts.

6. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the county assessor shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

7. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

8. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

~~[Sec. 6.]~~ *Sec. 7.* NRS 361.091 is hereby amended to read as follows:

361.091 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his surviving spouse, is entitled to a disabled veteran's exemption.

2. The amount of exemption is based on the total percentage of permanent service-connected disability. The maximum allowable exemption for total permanent disability is the first $20,000 assessed valuation. A person with a permanent service-connected disability of:

(a) Eighty to 99 percent, inclusive, is entitled to an exemption of $15,000 assessed value.

(b) Sixty to 79 percent, inclusive, is entitled to an exemption of $10,000 assessed value.

➥ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

3. The exemption may be allowed only to a claimant who has filed an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that he meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require him to produce an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his permanent service-connected disability;

(b) A certificate of satisfactory service which indicates the total percentage of his permanent service-connected disability; or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he has incurred a permanent service-connected disability and which indicates the total percentage of that disability, together with a certificate of honorable discharge or satisfactory service.

6. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the disabled veteran for the 5 years preceding his death;

(b) The disabled veteran was eligible for the exemption at the time of his death or would have been eligible if he had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

➥ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 4 and 5. After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

7. If a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent.

8. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

9. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

10. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amounts in subsection 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

~~[Sec. 7.]~~ *Sec. 8.* NRS 361.095 is hereby amended to read as follows:

361.095 1. The funds, furniture, paraphernalia and regalia owned and used exclusively by any post of any national organization of ex-servicemen or ex-servicewomen for the legitimate purposes and customary objects of such posts are exempt from taxation, but such an exemption must not exceed the sum of $10,000 assessed valuation to any one post or organization thereof.

2. The buildings, with their fixtures and the lots of ground on which they stand, used for its legitimate purposes and necessary thereto, of any such organization are exempt from taxation, but when any such property is used for purposes other than those of such an organization, and a rent or other valuable consideration is received for its use, the property so used must be taxed.

3. Where any structure or parcel of land is used partly for the purposes of such an organization and partly for rental purposes, the area used for rental purposes must be assessed separately and that portion only may be taxed.

4. Beginning with the ~~[2006-2007]~~ *2005-2006* Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ *2003* to the July preceding the fiscal year for which the adjustment is calculated. The

Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

~~[Sec. 7.5.]~~ *Sec. 9.* NRS 361.111 is hereby amended to read as follows:

361.111 1. Except as otherwise provided in subsections 2 and 3, all real property and improvements thereon acquired by the *Archaeological Conservancy*, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy and held for ultimate acquisition by the State or a local governmental unit are exempt from taxation if:

(a) The State or a local governmental unit has agreed, in writing, that acquisition of the property will be given serious consideration; and

(b) For property for which the State has given the statement required by paragraph (a), the governing body of the county in which the property is located has approved the potential acquisition of the property by the State.

2. When the *Archaeological Conservancy*, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy transfers property it has held for purposes of conservation to any person, partnership, association, corporation or entity other than the State or a local governmental unit, the property must be assessed at the rate set for first-class pasture by the Nevada Tax Commission for each year it was exempt pursuant to subsection 1 and the taxes must be collected as other taxes under this chapter are collected.

3. When the *Archaeological Conservancy*, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy transfers property it has held for purposes other than conservation to any person, partnership, association, corporation or entity other than the State or a local governmental unit, the tax imposed by this chapter must be assessed against the property for each year it was exempt pursuant to subsection 1 and collected in the manner provided in this chapter.

4. The Nevada Tax Commission shall adopt regulations specifying the criteria for determining when property has been held by the *Archaeological Conservancy*, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy for purposes of conservation.

~~[Sec. 8.]~~ *Sec. 10.* NRS 361.135 is hereby amended to read as follows:

361.135 1. The funds, furniture, paraphernalia and regalia owned by any lodge of the Benevolent Protective Order of Elks, Fraternal Order of Eagles, Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias or Knights of Columbus, or by any similar charitable organization, or by the Lahontan Audubon Society, the National Audubon Society, Inc., of New York, the Defenders of Wildlife of the District of Columbia or any similar benevolent or charitable society, so long as ~~[the same shall be]~~ *they are* used for the legitimate purposes of such lodge or society or for such charitable or benevolent purposes, ~~[shall be]~~ *are* exempt from taxation . ~~[, but such exemption shall in no case exceed the sum of $5,000 assessed valuation to any one lodge, society or organization.]~~

2. The real estate and fixtures of any such organization or society ~~[shall be]~~ *are* exempt from taxation, but when any such property is used for purposes other than those of such organization or society, and a rent or other valuable consideration is received for its use, the property so used ~~[shall]~~ *must* be taxed.

3. Where any structure or parcel of land is used partly for the purposes of such organization or society and partly for rental purposes, the area used for rental purposes ~~[shall]~~ *must* be assessed separately and that portion only ~~[shall]~~ *may* be taxed.

~~[Sec. 9.]~~ *Sec. 11.* NRS 361.155 is hereby amended to read as follows:

361.155 1. ~~[All]~~ *Except as otherwise provided in this subsection, all* claims for personal tax exemptions on real property, the initial claim of an organization for a tax exemption on real property and the designation of any amount to be credited to the Gift Account for Veterans' Homes pursuant to NRS 361.0905 must be filed on or before June 15. *An initial claim for a tax exemption on real property acquired after June 15 and before July 1 must be filed on or before July 5.*

2. All exemptions provided for pursuant to this chapter apply on a fiscal year basis and any exemption granted pursuant to this chapter must not be in an amount which gives the taxpayer a total exemption greater than that to which he is entitled during any fiscal year.

~~[2.]~~ *3.* Each claim for an exemption provided for pursuant to this chapter must be filed with the county assessor of:

(a) The county in which the claimant resides for personal tax exemptions; or

(b) Each county in which property is located for the tax exemption of an organization.

~~[3.]~~ *4.* After the initial claim for an exemption pursuant to NRS 361.088 or 361.098 to 361.150, inclusive, an organization is not required to file annual claims if the property remains exempt. If any portion of the property loses its exemption pursuant to NRS 361.157 or for any other reason becomes taxable, the organization must notify the county assessor.

~~[4.]~~ *5.* If an exemption is granted or renewed in error because of an incorrect claim or failure of an organization to give the notice required by subsection ~~[3,]~~ *4*, the assessor shall assess the taxable portion of the property retroactively pursuant to NRS 361.769 and a penalty of 10 percent of the tax due for the current year and any prior years may be added.

~~[Sec. 10.]~~ *Sec. 12.* NRS 361.233 is hereby amended to read as follows:

361.233 1. Notwithstanding any other provision of law:

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:

(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

(b) ~~[Each community unit must be assessed separately for the purposes of ad valorem taxes and special assessments.~~

~~(c) Any lien created by the levy of an ad valorem tax or special assessment upon a community unit applies only to the community unit assessed and does not apply to any other portion of the common interest community.]~~ *The taxable value of each parcel:*

(1) Composed solely of a community unit must consist of:

(I) The taxable value of that community unit; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community; or

(2) Composed of a community unit and any portion of the common elements of the common-interest community must consist of:

(I) The taxable value of that community unit only; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community.

2. *The Nevada Tax Commission shall adopt such regulations as it determines to be appropriate to ensure that this section is carried out in a uniform and equal manner that does not result in the double taxation of any common elements of a common-interest community.*

3. For the purposes of this section:

(a) "Ad valorem tax" means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) "Common elements" means ~~[all real property within]~~ *the physical portion of* a common-interest community ~~[other than the community units,]~~ *, including, without limitation, any landscaping, swimming pools, fitness centers, community centers, maintenance and service areas, parking areas, hallways, elevators and mechanical rooms,* which is ~~[owned:]~~ *:*

(1) *Intended for the general benefit of and potential use by all the owners of the community units and their invitees; and*

(2) Owned:

(I) By the community association;

~~[(2)]~~ *(II)* By any person on behalf or for the benefit of the owners of the community units; or

~~[(3)]~~ *(III)* Jointly by the owners of the community units.

(c) "Common-interest community" means real property with respect to which a person, by virtue of his ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, a condominium project governed by the provisions of chapter 117 of

NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) "Community association" means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community ~~[designated]~~ *, other than the common elements, which is:*

(1) Designated for separate ownership or occupancy ~~[.]~~ *; and*

(2) Intended for:

(I) Residential use by the owner of that unit and his invitees; or

(II) Commercial use by the owner of that unit for the generation of revenue from any persons other than the owners of community units in that common-interest community and their invitees.

(f) "Special assessment" means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

~~[Sec. 11.]~~ *Sec. 13.* NRS 361.360 is hereby amended to read as follows:

361.360 1. Any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 and present to the State Board of Equalization the matters complained of at one of its sessions. If March 10 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. All such appeals must be presented upon the same facts and evidence as were submitted to the county board of equalization in the first instance, unless there is discovered new evidence pertaining to the matter which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization. The new evidence must be submitted in writing to the State Board of Equalization and served upon the county assessor not less than 7 days before the hearing.

3. Any taxpayer whose real or personal property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 may likewise protest to the State Board of Equalization. Every such appeal must be filed on or before May 15. If May 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. A meeting must be held before May 31 to hear those protests that in the opinion of the State Board of Equalization may have a substantial effect on tax revenues. One or more meetings may be held at any time and place in the State before October 1 to hear all other protests.

4. The State Board of Equalization may not reduce the assessment of the county assessor if:

(a) The appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include in the list required of him pursuant to NRS 361.265 or *if the taxpayer* has refused or, without good cause, has neglected to provide the list to the county assessor; or

(b) The taxpayer has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination authorized by NRS 361.260.

5. *Any change made in an assessment appealed to the State Board of Equalization is effective only for the fiscal year for which the assessment was made.* The county assessor shall *review* each ~~[year review any]~~ *such* change ~~[made in an assessment for the previous fiscal year]~~ and maintain or remove the change as circumstances warrant ~~[.]~~ *for the next fiscal year.*

6. If the State Board of Equalization determines that the record of a case on appeal from the county board of equalization is inadequate because of an act or omission of the county assessor, the district attorney or the county board of equalization, the State Board of Equalization may remand the case to the county board of equalization with directions to develop an adequate record within 30 days after the remand. The directions must indicate specifically the inadequacies to be remedied. If the State Board of Equalization determines that the record returned from the county board of equalization after remand is still inadequate, the State Board of Equalization may hold a hearing anew on the appellant's complaint or it may, if necessary, contract with an appropriate person to hear the matter, develop an adequate record in the case and submit recommendations to the State Board. The cost of the contract and all costs, including attorney's fees, to the State or the appellant necessary to remedy the inadequate record on appeal are a charge against the county.

~~[Sec. 12.]~~ *Sec. 14.* ~~[NRS 361.420 is hereby amended to read as follows:~~

~~361.420 1. Any property owner whose taxes are in excess of the amount which the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The protest must be in the form of a separate, signed statement from the property owner and filed with the tax receiver at the time of the payment of the installment of taxes.~~

~~2. The property owner, having protested the payment of taxes as provided in subsection 1 and having been denied relief by the State Board of Equalization, may [commence a suit]~~ *file for the judicial review of the decision of the State Board of Equalization* ~~in any court of competent jurisdiction in the [State of Nevada]~~ *county in which the taxes were paid* ~~against the State and county in which the taxes were paid, and, in a proper case, both the Nevada Tax Commission and the Department may be joined as a defendant for a recovery of the difference between the amount of taxes paid and the amount which the owner claims justly to be due, and the owner may complain upon any of the grounds contained in subsection 4.~~

~~3. Every action commenced under the provisions of this section must be commenced within 3 months after the date of the payment of the last installment of taxes, and if not so commenced is forever barred. If the tax complained of is paid in full and under the written protest provided for in this section, at the time of the payment of the first installment of taxes, suit for the recovery of the difference between the amount paid and the amount claimed to be justly due must be commenced within 3 months after the date of the full payment of the tax or the issuance of the decision of the State Board of Equalization denying relief, whichever occurs later, and if not so commenced is forever barred.~~

~~4. In any suit brought under the provisions of this section, the person assessed may complain or defend upon any of the following grounds:~~

~~(a) That the taxes have been paid before the suit;~~

~~(b) That the property is exempt from taxation under the provisions of the revenue or tax laws of the State, specifying in detail the claim of exemption;~~

~~(c) That the person assessed was not the owner and had no right, title or interest in the property assessed at the time of assessment;~~

~~(d) That the property is situate in and has been assessed in another county, and the taxes thereon paid;~~

~~(e) That there was fraud in the assessment or that the assessment is out of proportion to and above the taxable cash value of the property assessed;~~

~~(f) That the assessment is out of proportion to and above the valuation fixed by the Nevada Tax Commission for the year in which the taxes were levied and the property assessed; or~~

~~(g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the State is assessed.~~

~~5. In a suit based upon any one of the grounds mentioned in paragraphs (e), (f) and (g) of subsection 4, the court shall conduct the trial without a jury and confine its review to the record before the State Board of Equalization. Where procedural irregularities by the Board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.~~

~~6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.~~

~~7. In any judgment recovered by the taxpayer under this section, the court may provide for interest thereon not to exceed 6 percent per annum from and after the date of payment of the tax complained of.~~] *(Deleted by amendment.)*

~~[Sec. 13.]~~ *Sec. 15.* ~~[NRS 361.435 is hereby amended to read as follows:~~

~~361.435 Any property owner owning property of like kind in more than one county in the State and desiring to proceed with a suit under the provisions of NRS 361.420 may, where the issues in the cases are substantially the same in all or in some of the counties concerning the assessment of taxes on such property, consolidate any of the suits in one action and bring the action in any court of competent jurisdiction in [Carson City,] the county of this State where the property owner resides or maintains his principal place of business or a county in which any relevant proceedings were conducted by the Department.]~~ *(Deleted by amendment.)*

~~[Sec. 14.]~~ *Sec. 16.* NRS 361.471 is hereby amended to read as follows:

361.471 As used in NRS 361.471 to 361.4735, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[361.4711 to 361.4721, inclusive,]~~ *361.4712, 361.4715 and 361.4721* have the meanings ascribed to them in those sections.

~~[Sec. 15.]~~ *Sec. 17.* NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[,]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[,]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS 361.473 to 361.4733, inclusive, and any regulations adopted pursuant thereto, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section ~~[:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Remainder]~~ *, "remainder* parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~[(c) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

~~[Sec. 16.]~~ *Sec. 18.* NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in

the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[,]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and

considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~[lesser]~~ *greater* of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~[or]~~

(II) ~~[Eight percent; or~~

~~(2)]~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~[,]~~ *; or*

(III) Zero; or

(2) Eight percent,

➥ whichever is ~~[greater.]~~ *less.*

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section ~~[:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Remainder]~~ , *"remainder* parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~[(c) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

~~[Sec. 17.]~~ *Sec. 19.* NRS 361.4723 is hereby amended to read as follows:

361.4723 The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution. The Legislature therefore directs a partial abatement of taxes for such homeowners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, the owner of a single-family residence which is the primary residence of the owner is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to any property for which:

(a) No assessed valuation was separately established for the immediately preceding fiscal year; or

(b) The provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the

application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section, including, without limitation, regulations providing a methodology for applying the partial abatement provided pursuant to subsection 1 to a parcel of real property of which only a portion qualifies as a single-family residence which is the primary residence of the owner and the remainder is used in another manner.

5. The owner of a single-family residence does not become ineligible for the partial abatement provided pursuant to subsection 1 as a result of:

(a) The operation of a home business out of a portion of that single-family residence; or

(b) The manner in which title is held by the owner if the owner occupies the residence, including, without limitation, if the owner has placed the title in a trust for purposes of estate planning.

6. For the purposes of this section:

(a) ~~["Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b)]~~ "Primary residence of the owner" means a residence which:

(1) Is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State; and

(2) Is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.

~~[(c)]~~ *(b)* "Single-family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

~~[(d) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.~~

~~(e)]~~ *(c)* "Unit of personal property" includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

➥ if classified as personal property for the purposes of this chapter.

~~[(f)]~~ *(d)* "Unit of real property" includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit

development or similar property, if classified as real property for the purposes of this chapter.

~~[Sec. 18.]~~ *Sec. 20.* NRS 361.4724 is hereby amended to read as follows:

361.4724 The Legislature hereby finds and declares that many Nevadans who cannot afford to own their own homes would be adversely affected by large unanticipated increases in property taxes, as those tax increases are passed down to renters in the form of rent increases and therefore the benefits of a charitable exemption pursuant to subsection 8 of Section 1 of Article 10 of the Nevada Constitution should be afforded to those Nevadans through an abatement granted to the owners of residential rental dwellings who charge rent that does not exceed affordable housing standards for low-income housing. The Legislature therefore directs a partial abatement of taxes for such owners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, if the amount of rent collected from each of the tenants of a residential dwelling does not exceed the fair market rent for the county in which the dwelling is located, as most recently published by the United States Department of Housing and Urban Development, the owner of the dwelling is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to:

(a) Any hotels, motels or other forms of transient lodging;

(b) Any property for which no assessed valuation was separately established for the immediately preceding fiscal year; and

(c) Any property for which the provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ *361.4732* and any regulations adopted

pursuant ~~[thereto,]~~ *to NRS 361.4733,* the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section.

~~[5. For the purposes of this section:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

~~[Sec. 19.]~~ *Sec. 21.* NRS 361.4725 is hereby amended to read as follows:

361.4725 1. ~~[Notwithstanding]~~ *Except as otherwise provided in this section and notwithstanding* the provisions of NRS 361.4722, 361.4723 and 361.4724, if the taxable value of any parcel or other taxable unit of property:

(a) Decreases by 15 percent or more from its taxable value on:

(1) July 1, 2003; or

(2) July 1 of the second year immediately preceding the lien date for the current year,

➥ whichever is later; and

(b) For any fiscal year beginning on or after July 1, 2005, increases by 15 percent or more from its taxable value for the immediately preceding fiscal year,

➥ the amount of any ad valorem taxes levied in a county which, if not for the provisions of NRS 361.4722, 361.4723 and 361.4724, would otherwise have been collected for the property for that fiscal year as a result of that increase in taxable value, excluding any amount attributable to any increase in the taxable value of the property above the taxable value of the property on the most recent date determined pursuant to paragraph (a), must be levied on the property and carried forward each fiscal year, without any penalty or interest, in such a manner that one-third of that amount may be collected during that fiscal year and each of the succeeding 2 fiscal years.

2. *If the total amount otherwise required to be collected during a fiscal year and each of the succeeding 2 fiscal years pursuant to subsection 1 for a parcel or other taxable unit of property is less than or equal to $100, the entire amount may be levied on the property and collected during that initial fiscal year.*

3. The Nevada Tax Commission may exempt from the requirements of this section the levy of any taxes in an amount which is less than the cost of collecting those taxes.

4. The amount of any taxes ~~[which are carried forward and]~~ levied on any property pursuant to this section must be added to the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for a fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

~~[3.]~~ *5.* The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

~~[4. For the purposes of this section:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

~~[Sec. 20.]~~ *Sec. 22.* NRS 361.473 is hereby amended to read as follows:

361.473 *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733:*

1. On or before August 1 of each fiscal year, the tax receiver of each county shall determine for each parcel or other taxable unit of property located in that county, other than any property to which subsection 2 or NRS 361.4731 applies, for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year, the amount which equals the lesser of:

(a) The amount of the partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(b) The product of the assessed value of the property for the current fiscal year and the difference between:

(1) The combined overlapping tax rate applicable to the property for the current fiscal year; and

(2) The combined overlapping tax rate applicable to the property for the immediately preceding fiscal year.

2. On or before August 1 of each fiscal year, the Department shall determine for each parcel or other taxable unit of property which is valued pursuant to NRS 361.320 or 361.323, other than any property to which NRS 361.4731 applies, and for which the owner thereof is entitled to a partial

abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724 and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year, the amount which equals the lesser of:

(a) The amount of the partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(b) The product of the assessed value of the property for the current fiscal year and the difference between:

(1) The combined overlapping tax rate applicable to the property for the current fiscal year; and

(2) The combined overlapping tax rate applicable to the property for the immediately preceding fiscal year.

3. That portion of the amount of any reduction in the ad valorem taxes levied on any parcel or other taxable unit of property to which subsection 1 or 2 applies for a fiscal year as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is determined pursuant to subsection 1 or 2 must be deducted from the amount of ad valorem taxes that each taxing entity which has increased its rate of ad valorem taxes applicable to the property from the rate for the immediately preceding fiscal year, would otherwise be entitled to receive for the current fiscal year in the same proportion as that increase in its ad valorem tax rate bears to the total increase in the combined overlapping tax rate applicable to the property for the current fiscal year.

~~[Sec. 21.]~~ *Sec. 23.* NRS 361.4731 is hereby amended to read as follows:

361.4731 *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733:*

1. On or before August 1 of each fiscal year, the tax receiver of each county in which is located a redevelopment area for which there is any incremental assessed value shall determine for each parcel or other taxable unit of property in that redevelopment area, other than any property to which subsection 2 applies, for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year:

(a) The amount which equals the lesser of:

(1) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(2) The product of the parcel-proportionate share of the base value for that property for the current fiscal year and the greater of:

(I) Zero; or

(II) The rate that results when the rate obtained by adding the combined overlapping tax rate for that property for the immediately preceding fiscal year to a percentage of that rate which is equal to the abatement percentage applicable to the property for the current fiscal year, is subtracted from the combined overlapping tax rate for that property for the current fiscal year; and

(b) The amount which equals the difference between:

(1) The amount determined pursuant to paragraph (a); and

(2) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year.

2. On or before August 1 of each fiscal year, the Department shall determine for each parcel or other taxable unit of property which is valued pursuant to NRS 361.320 or 361.323 and apportioned to a redevelopment area for which there is any incremental assessed value, and for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year:

(a) The amount which equals the lesser of:

(1) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(2) The product of the parcel-proportionate share of the base value for that property for the current fiscal year and the greater of:

(I) Zero; or

(II) The rate that results when the rate obtained by adding the combined overlapping tax rate for that property for the immediately preceding fiscal year to a percentage of that rate which is equal to the abatement percentage applicable to the property for the current fiscal year, is subtracted from the combined overlapping tax rate for that property for the current fiscal year; and

(b) The amount which equals the difference between:

(1) The amount determined pursuant to paragraph (a); and

(2) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year.

3. That portion of the amount of any reduction in the ad valorem taxes levied on any parcel or other taxable unit of property to which subsection 1 or 2 applies for a fiscal year as a result of the application of NRS 361.4722, 361.4723 or 361.4724 which is determined pursuant to:

(a) Paragraph (a) of subsection 1 or paragraph (a) of subsection 2 for each such parcel or other taxable unit of property for which the combined overlapping tax rate for the current fiscal year has increased from the

combined overlapping tax rate for the immediately preceding fiscal year by a percentage that exceeds the abatement percentage for that property, must be deducted from the amount of ad valorem taxes that each redevelopment taxing entity which has increased its rate of ad valorem taxes applicable to the property from the rate for the immediately preceding fiscal year, would otherwise be entitled to receive for the current fiscal year from the ad valorem taxes levied on the base-year assessed value for that property in the same proportion as that increase in its ad valorem tax rate bears to the total increase in the combined overlapping tax rate applicable to the property for the current fiscal year; and

(b) Paragraph (b) of subsection 1 or paragraph (b) of subsection 2 must be deducted from the amount of ad valorem taxes the redevelopment agency and each redevelopment taxing entity would otherwise be entitled to receive pursuant to paragraphs (b), (c) and (d) of subsection 1 of NRS 279.676 for the current fiscal year in the same proportion as each of those entities would otherwise share in the total amount distributed pursuant to those paragraphs.

~~[Sec. 22.]~~ *Sec. 24.* NRS 361.4732 is hereby amended to read as follows:

361.4732 ~~[Notwithstanding]~~ *Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733 and notwithstanding* any other provision of NRS 361.471 to 361.4735, inclusive, to the contrary, after a parcel or other taxable unit of real property is annexed to a taxing entity:

1. The amount otherwise required to be determined pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724 with respect to that property for the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the amount of ad valorem taxes which would have been levied on the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier, based upon the tax rates that would have applied to the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier and without regard to any exemptions from taxation that applied to the property for the immediately preceding fiscal year but do not apply to the property for the current fiscal year; and

2. For the purposes of any other calculations required pursuant to the provisions of NRS 361.471 to 361.4735, inclusive, the combined overlapping tax rate applicable to that property for the fiscal year immediately preceding the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the combined overlapping tax rate that would have applied to the property for that year if the annexation had occurred 1 year earlier.

~~[Sec. 23.]~~ *Sec. 25.* NRS 361.4733 is hereby amended to read as follows:

361.4733 1. The Committee on Local Government Finance ~~[may]~~ *shall* adopt:

(a) *Such regulations as it determines to be appropriate to provide for the allocation among the appropriate taxing entities of the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, in accordance with the principles that:*

(1) Any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is caused by an increase in the rate of taxes imposed by one or more taxing entities should be allocated to the taxing entities that would have received the benefit of that increase in proportion to the relative amount of benefit that otherwise would have been received from that increase;

(2) Any increase in the rate of ad valorem taxes imposed by a taxing entity should not affect the amount of ad valorem taxes received by other taxing entities, except for redevelopment agencies and tax increment areas whose property tax receipts depend on the tax rate of the taxing entity that increases its rate of taxes and whose territory is included, in whole or in part, in the territory of the taxing entity that increases its rate of taxes; and

(3) A taxing entity that does not increase its rate of ad valorem taxes should not be allocated any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, except for any reduction caused by an increase in the assessed value of that parcel or other taxable unit of real property; and

(b) Subject to the principles set forth in paragraph (a):

(1) Such regulations as it determines to be appropriate for the administration and interpretation of the provisions of NRS 361.473, 361.4731 and 361.4732; and

~~[(b)]~~ *(2)* Regulations which provide, in a manner that is consistent with the provisions of NRS 361.473, 361.4731 and 361.4732, methodologies for allocating among the appropriate taxing entities the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 if the property is included in or excluded from the boundaries of a redevelopment area, tax increment area or taxing entity after June 14, 2005.

2. Any regulations adopted by the Committee on Local Government Finance pursuant to this section must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

~~[Sec. 24.]~~ *Sec. 26.* NRS 361.4733 is hereby amended to read as follows:

361.4733 1. The Committee on Local Government Finance ~~[may]~~ *shall* adopt:

(a) *Such regulations as it determines to be appropriate to provide for the allocation among the appropriate taxing entities of the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, in accordance with the principles that:*

(1) Any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is caused by an increase in the rate of taxes imposed by one or more taxing entities should be allocated to the taxing entities that would have received the benefit of that increase in proportion to the relative amount of benefit that otherwise would have been received from that increase;

(2) Any increase in the rate of ad valorem taxes imposed by a taxing entity should not affect the amount of ad valorem taxes received by other taxing entities, except for redevelopment agencies and tax increment areas whose property tax receipts depend on the tax rate of the taxing entity that increases its rate of taxes and whose territory is included, in whole or in part, in the territory of the taxing entity that increases its rate of taxes; and

(3) A taxing entity that does not increase its rate of ad valorem taxes should not be allocated any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, except for any reduction caused by an increase in the assessed value of that parcel or other taxable unit of real property; and

(b) Subject to the principles set forth in paragraph (a):

(1) Such regulations as it determines to be appropriate for the administration and interpretation of the provisions of NRS ~~[361.473, 361.4731 and]~~ 361.4732; and

~~[(b)]~~ *(2)* Regulations which provide ~~[, in a manner that is consistent with the provisions of NRS 361.473, 361.4731 and 361.4732,]~~ methodologies for allocating among the appropriate taxing entities the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 if the property is included in or excluded from the boundaries of a redevelopment area, tax increment area or taxing entity after June 14, 2005.

2. Any regulations adopted by the Committee on Local Government Finance pursuant to this section must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

~~[Sec. 25.]~~ *Sec. 27.* NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722,

361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the tax receiver of the county in which the property is located. *The petition must be submitted on or before January 15 of the fiscal year for which the determination is effective.* The tax receiver shall, after consulting with the county assessor of that county regarding the determination and within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

(b) Is valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the Department. The Department shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

2. A taxpayer who is aggrieved by a decision rendered by a tax receiver or the Department pursuant to subsection 1 may, within 30 days after receiving notice of that decision, appeal the decision to the Nevada Tax Commission.

3. A taxpayer who is aggrieved by a determination of the Nevada Tax Commission rendered on an appeal made pursuant to subsection 2 is entitled to a judicial review of that determination.

~~[Sec. 26.]~~ *Sec. 28.* NRS 361.4835 is hereby amended to read as follows:

361.4835 1. If the county treasurer or the county assessor finds that a person's failure to make a timely return or payment of tax that is assessed by the county treasurer or county assessor and that is imposed pursuant to chapter 361 of NRS, except NRS 361.320, is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the county treasurer or the county assessor may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must *pay the amount of the tax due and, within 30 days after the date the payment is made,* file a statement setting forth the facts upon which he bases his claim with the county treasurer or the county assessor.

3. The county treasurer or the county assessor shall disclose, upon the request of any person:

(a) The name of the person; and

(b) The amount of the relief.

4. If the relief sought by the taxpayer is denied, he may appeal from the denial to the Nevada Tax Commission.

5. The county treasurer or the county assessor may defer the decision to the Department.

~~[Sec. 27.]~~ *Sec. 29.* Section 57 of chapter 496, Statutes of Nevada `2005, at page 2680, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, [2007.] *2009.*

5. Section 43 of this act expires by limitation on June 30, [2007.] *2009.*

[Sec. 28.] *Sec. 30.* [1.] NRS 361.4711, 361.4713, 361.4714, 361.4716, 361.4717, 361.4718, 361.4719, 361.472, 361.473 and 361.4731 are hereby repealed.

[2. Section 23 of chapter 496, Statutes of Nevada 2005, at page 2660, is hereby repealed.

Sec. 29.] *Sec. 31.* 1. The Legislature hereby approves, confirms and ratifies the regulations adopted by the Committee on Local Government Finance pursuant to NRS 361.4733 before the effective date of this section.

2. The Committee on Local Government Finance shall adopt the regulations required pursuant to the amendatory provisions of section [23] *25* of this act not later than December 31, 2007.

Sec. 32. Section 1 of this act, except as may otherwise be provided by interlocal agreement or resolution, applies retroactively:

1. To taxes on the transfer of real property for any real property whose title was transferred on or after July 1, 2006; and

2. To property taxes levied for the Fiscal Year 2006-2007.

[Sec. 30.] *Sec. 33.* 1. This section and [section 27, subsection 2 of section 28 and section 29] *sections 1, 29, 31 and 32* of this act become effective upon passage and approval.

2. Sections [1 to 13, inclusive, 15, 19 to 23, inclusive, 25 and 26] *2 to 15, inclusive, 17, 21 to 25, inclusive, 27 and 28* of this act become effective on July 1, 2007.

3. Sections [15 and 23] *17 and 25* of this act expire by limitation on December 31, 2007.

4. Sections [14, 16, 17, 18 and 24 and subsection 1 of section 28] *16, 18, 19, 20, 26 and 30* of this act become effective on January 1, 2008.

LEADLINES OF REPEALED SECTIONS [OF NRS AND EXT OF REPEALED SECTION OF STATUTES OF NEVADA]

361.4711 "Abatement percentage" defined.
361.4713 "Base-year assessed value" defined.
361.4714 "Base-year assessed value percentage" defined.
361.4716 "Incremental assessed value" defined.
361.4717 "Parcel-proportionate share of the base value" defined.
361.4718 "Redevelopment agency" defined.
361.4719 "Redevelopment area" defined.
361.472 "Redevelopment taxing entity" defined.

361.473 Allocation of certain portions of reduction in revenue resulting from partial abatements applicable to property for which tax rate increases: Generally.

361.4731 Allocation of certain portions of reduction in revenue resulting from partial abatements applicable to property for which tax rate increases: Property in or apportioned to redevelopment area.

~~[Section 23 of chapter 496, Statutes of Nevada 2005:~~

~~Sec. 23. NRS 361.530 is hereby amended to read as follows:~~

~~361.530 [1. Except as otherwise provided in this section, on] *On* all money collected from personal property tax by the several county assessors and county treasurers, there must be reserved and paid into the county treasury, for the benefit of the general fund of their respective counties, by the county assessor or county treasurer, a percentage commission of [8] 6 percent on the gross amount of collections from personal property tax.~~

~~[2. One quarter of the commission reserved pursuant to subsection 1 must be accounted for separately in the account for the acquisition and improvement of technology in the office of the county assessor created pursuant to NRS 250.085.]]~~

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Motion lost on a division of the house.

Senators McGinness, Rhoads and Cegavske requested a roll call vote on Senator McGinness' motion.

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:50 p.m.

SENATE IN SESSION

At 12:59 p.m.

President Krolicki presiding.

Quorum present.

Senator McGinness withdrew the request for a roll call vote on Amendment No. 712 to Assembly Bill No. 209.

Senator McGinness moved that Assembly Bill No. 209 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator McGinness.

Motion carried.

Assembly Bill No. 216.

Bill read second time.

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

Amendment No. 738.

"SUMMARY—Provides additional requirements for closing or converting manufactured home parks. (BDR 10-141)"

"AN ACT relating to manufactured home parks; requiring a landlord who proposes to close or convert a manufactured home park to submit a resident impact statement ~~[,]~~ *under certain circumstances;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law describes the obligations that a landlord must meet when closing or converting a manufactured home park. (NRS 118B.177, 118B.180, 118B.183) Sections 1-4 of this bill add to those requirements by requiring the landlord to submit a resident impact statement . ~~[before beginning the process of closure or conversion.]~~ Additionally, section 1 sets forth the requirements for a resident impact statement ~~[.]~~ *and the time for its submission. Section 1 also exempts a landlord who complies with local rules for converting or closing a manufactured home park if the local rules establish requirements concerning the disclosure of the impact on residents that are at least as stringent as the requirements of section 1.*

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

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

~~*[Before]*~~

1. Except as otherwise provided in subsection 4, if a landlord begins the process of closing or converting a manufactured home park, he shall ~~[first]~~ submit a resident impact statement to the appropriate local zoning board, planning commission or governing body.

2. The landlord shall submit the resident impact statement before:

(a) The appropriate local zoning board, planning commission or governing body makes a decision concerning the closure or conversion of the manufactured home park; or

(b) The conclusion of the process of closing or converting the manufactured home park,

➥ whichever is earlier.

3. The resident impact statement must be in such form as the Division ~~[shall prescribe]~~ prescribes by regulation and must include, without limitation, the following information:

~~[1.]~~ (a) The addresses and corresponding manufactured home identification numbers of all tenants of the park;

~~[2.]~~ (b) An analysis of replacement housing needs or requirements for the tenants; and

~~[3.]~~ (c) An analysis of any sites to which the homes of the tenants may be moved.

4. The provisions of this section do not apply to a landlord who complies with the rules, regulations or procedures for the closure or conversion of a

manufactured home park established by the appropriate local zoning board, planning commission or governing body which include requirements that are substantially similar to or more stringent than the requirements of this section.

Sec. 2. NRS 118B.177 is hereby amended to read as follows:

118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the amount described in subsection 2 or 3, in accordance with the choice of the tenant.

2. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving each tenant's manufactured home and its appurtenances to a new location within 50 miles from the manufactured home park; or

(b) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles,

➥ including fees for inspection, any deposits for connecting utilities, and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.

3. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged ~~[,]~~ or there is no manufactured home park within 50 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home less the reasonable cost of removing and disposing of the manufactured home.

4. Written notice of any closure must be served timely on each:

(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

(b) Prospective tenant by:

(1) Handing each prospective tenant or his agent a copy of the written notice; and

(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.

5. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

6. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection 4.

7. ~~*[Before]*~~ *If a landlord* ~~*[may begin]*~~ *begins the process of closing a manufactured home park, he shall* ~~*[submit]*~~ *comply with the provisions of section 1 of this act concerning the submission of a resident impact statement* . ~~*[pursuant to section 1 of this act.]*~~

8. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.

Sec. 3. NRS 118B.180 is hereby amended to read as follows:

118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least 90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;

(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;

(d) If a tenant does not exercise his option to purchase the lot pursuant to paragraph (b), the landlord pays:

(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location within 50 miles from the manufactured home park; or

(2) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles,

➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park; ~~[and]~~

(e) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body,

notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot ~~[.]~~ *; and*

(f) ~~*[Before he begins the process of converting a manufactured home park, the]*~~ *The landlord* ~~*[submits]*~~ *complies with the provisions of section 1 of this act concerning the submission of a resident impact statement* . ~~*[pursuant to section 1 of this act.]*~~

3. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.

4. Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.

5. The provisions of this section do not apply to a corporate cooperative park.

Sec. 4. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amount described in subsection 3 or 4, in accordance with the choice of the tenant; ~~[and]~~

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot ~~[.]~~ *; and*

(d) ~~*[Before he begins the process of converting a manufactured home park, the]*~~ *The landlord* ~~*[submits]*~~ *complies with the provisions of section 1 of this act concerning the submission of a resident impact statement* . ~~*[pursuant to section 1 of this act.]*~~

3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location within 50 miles from the manufactured home park; or

(b) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles,

➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

4. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged ~~[,]~~ or there is no manufactured home park within 50 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home less the reasonable cost of removing and disposing of the manufactured home.

5. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

6. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

7. The provisions of this section do not apply to a corporate cooperative park.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 228.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 849.

"SUMMARY—Revises provisions governing licenses to engage in pest control. (BDR 49-626)"

"AN ACT relating to pest control; authorizing the Director of the State Department of Agriculture to refuse to issue a license to engage in pest control to a person who is convicted of certain ~~[acts; prohibiting the Director from issuing such a license until the expiration of the period of the person's parole, probation or sentence;]~~ *crimes; requiring an applicant for a license to engage in pest control to submit a complete set of his fingerprints to the Director under certain circumstances;* prohibiting a person ~~[, in connection with a real estate transaction,]~~ from engaging in certain pest control activities concerning wood-destroying pests or organisms without a license issued by the Director; *providing additional grounds for the Director to revoke, suspend or modify a license to engage in pest control;* providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in pest control activities without a license issued by the Director of the State Department of Agriculture. (NRS 555.280) "Pest control" means the business of using pesticides and mechanical devices to control infestations of pests and the inspection for hire of houses and other structures. The term also includes the submission of reports, estimates or bids for the inspection or control of wood-destroying pests. (NRS 555.2667) Existing law further prohibits a person from engaging in various pest control activities concerning wood-destroying pests or organisms without a license issued by the Director, including, without limitation, ~~[conducting an inspection to identify or attempt to identify infestations or infections of houses by those pests and]~~ preparing inspection reports concerning ~~[the infestations or infections.]~~ *those pests or organisms.* (NRS 555.285)

Section 1 of this bill authorizes the Director to refuse to issue a license to ~~[engage in]~~ *perform* pest control to ~~[a person who is]~~ *certain persons who are* convicted of, or ~~[enters]~~ *enter* a plea of guilty or nolo contendere to, ~~[certain specified crimes, including, without limitation,]~~ *a felony or* any crime involving moral turpitude. Section 1 also ~~[prohibits the Director from issuing]~~ *requires an applicant for* a license to engage in pest control ~~[to such a person until the expiration of the person's parole, probation or sentence.]~~ *who is a primary principal or intends to act as a primary principal for a pest control business to submit a complete set of his fingerprints to the Director.* Additionally, section 1 sets forth grounds for the Director to refuse to issue ~~[such]~~ a license ~~[.]~~ *to perform pest control.*

Section 3 of this bill prohibits a person from ~~[engaging in certain pest control activities]~~ *altering an inspection report* concerning wood-destroying pests or organisms without a license issued by the Director *.* ~~[if the pest control activities are conducted in connection with a real estate transaction. Those pest control activities include: (1) making an inspection to identify or attempt to identify infestations or infections of wood-destroying pests or organisms; (2) making or altering inspection reports concerning those infestations~~

~~or infections; (3) making written or oral estimates or bids concerning the infestations or infections; and (4) submitting bids to do any work involving the application of pesticides to eliminate, exterminate, control or prevent the infestations or infections.]~~

Existing law authorizes the Director to revoke, suspend or modify a license to engage in pest control if he finds that the licensee has engaged in certain activities.

(NRS 555.350)

Section 3.5 of this bill expands those activities to include a conviction of the licensee of a felony or any crime involving moral turpitude.

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

Section 1. Chapter 555 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director ~~[:~~

~~(a) May]~~ may refuse to issue a license to ~~[engage in]~~ perform pest control to any person who ~~[has]~~ :

(a) Is a primary principal or intends to act as a primary principal for a pest control business pursuant to NRS 555.3507; and

(b) Has been convicted of, or entered a plea of guilty or nolo contendere to, ~~[forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in pest control without a license, possessing for the purpose of sale any controlled substance]~~ a felony or any crime involving moral turpitude, in any court of competent jurisdiction in the United States or any other country.

~~[(b) Shall not issue a license to engage in pest control to a person specified in paragraph (a) until the expiration of the period of the person's parole, probation or sentence.]~~

2. In addition to any other requirements set forth in this chapter, each applicant for a license to perform pest control specified in paragraph (a) of subsection 1 shall submit with his application a complete set of his fingerprints and written permission authorizing the Director to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. A suspension or revocation of a license to ~~[engage in]~~ perform pest control pursuant to NRS 555.350 or any previous revocation or current suspension of such a license in this or any other state, district or territory of the United States or any foreign country ~~[within 10 years immediately preceding the date of submission of an application for a license]~~ is grounds for refusal to issue the license.

Sec. 2. NRS 555.2605 is hereby amended to read as follows:

555.2605 As used in NRS 555.2605 to 555.460, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 555.261 to 555.2695, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 555.285 is hereby amended to read as follows:

555.285 A person shall not , for hire , ~~[for in connection with any real estate transaction,]~~ engage in, offer to engage in, advertise or solicit to perform any of the following pest control activities concerning wood-destroying pests or organisms without a license issued by the Director:

1. Making an inspection to identify or to attempt to identify infestations or infections of households or other structures by those pests or organisms.

2. Making *or altering* inspection reports concerning the infestations or infections.

3. Making estimates or bids, whether written or oral, concerning the infestations or infections.

4. Submitting bids to perform any work involving the application of pesticides for the elimination, extermination, control or prevention of infestations or infections of those pests.

Sec. 3.5. *NRS 555.350 is hereby amended to read as follows:*

555.350 1. The Director may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may revoke, suspend or modify any license issued under NRS 555.2605 to 555.460, inclusive, *and section 1 of this act*, if he finds that:

(a) The licensee is no longer qualified;

(b) The licensee has engaged in fraudulent business practices in pest control;

(c) The licensee has made false or fraudulent claims through any media by misrepresenting the effect of materials or methods to be used;

(d) The licensee has applied known ineffective or improper materials;

(e) The licensee operated faulty or unsafe equipment;

(f) The licensee has made any application in a faulty, careless or negligent manner;

(g) The licensee has violated any of the provisions of NRS 555.2605 to 555.460, inclusive, *and section 1 of this act*, or regulations adopted pursuant thereto;

(h) The licensee engaged in the business of pest control without having a licensed applicator or operator in direct on-the-job supervision;

(i) The licensee aided or abetted a licensed or an unlicensed person to evade the provisions of NRS 555.2605 to 555.460, inclusive, *and section 1 of this act*, combined or conspired with such a licensee or an unlicensed person to evade the provisions, or allowed one's license to be used by an unlicensed person;

(j) The licensee was intentionally guilty of fraud or deception in the procurement of his license; ~~[or]~~

(k) The licensee was intentionally guilty of fraud or deception in the issuance of an inspection report on wood-destroying pests or other report required by regulation ~~[.]~~ *; or*

(l) The licensee has been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving moral turpitude in any court of competent jurisdiction in the United States or any other country.

2. A license is suspended automatically, without action of the Director, if the proof of public liability and property damage or drift insurance filed pursuant to NRS 555.330, is cancelled, and the license remains suspended until the insurance is reestablished.

3. A licensee against whom the Director initiates disciplinary action to revoke, suspend or modify the license of the licensee pursuant to this section shall, within 30 days after receiving written notice of the disciplinary action from the Director, submit to the Director a complete set of his fingerprints and written permission authorizing the Director to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

4. A willful failure of a licensee to comply with the requirements of subsection 3 constitutes an additional ground for the revocation, suspension or modification of the license of the licensee pursuant to this section.

5. The Director has additional grounds to revoke, suspend or modify a license pursuant to this section if the report from the Federal Bureau of Investigation indicates that the licensee has been convicted of a felony or crime specified in paragraph (l) of subsection 1.

Sec. 4. NRS 555.400 is hereby amended to read as follows:

555.400 1. The Director may adopt regulations to carry out the provisions of NRS 555.2605 to 555.460, inclusive, ~~[but the]~~ *and section 1 of this act. The* regulations must not be inconsistent with *any* regulations issued by this State or by the Federal Government relating to safety in air navigation or *the* operation of aircraft.

2. Before ~~[issuing]~~ *adopting* regulations directly relating to any matter within the jurisdiction of any other officer of this State, the Director shall consult with that officer ~~[with reference thereto.]~~ *concerning those regulations.*

Sec. 5. NRS 555.460 is hereby amended to read as follows:

555.460 Any person violating the provisions of NRS 555.2605 to 555.420, inclusive, *and section 1 of this act,* or the regulations adopted pursuant thereto, is guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the Department an administrative fine of not more than $5,000 per violation. If an administrative fine is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Department.

Sec. 6. NRS 555.470 is hereby amended to read as follows:

555.470 1. The Director shall adopt regulations specifying a schedule of fines which may be imposed, upon notice and a hearing, for each violation of the provisions of NRS 555.2605 to 555.460, inclusive ~~[.]~~ *, and section 1 of this act.* The maximum fine that may be imposed by the Director for each violation must not exceed $5,000 per day. All fines collected by the Director

pursuant to this subsection must be remitted to the county treasurer of the county in which the violation occurred for credit to the county school district fund.

2. The Director may:

(a) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation; or

(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the State Board of Agriculture suspects may have violated any provision of NRS 555.2605 to 555.460, inclusive ~~[.]~~ *, and section 1 of this act.*

Sec. 7. This act becomes effective ~~[upon passage and approval.]~~ *on January 1, 2008.*

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 239.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 844.

"SUMMARY—Requires a ~~[vehicle dealer]~~ *provider of a vehicle service contract* to notify the buyer of ~~[a]~~ *the* vehicle service contract if the provider ~~[of the vehicle service contract]~~ ceases doing business in this State. (BDR ~~[43-971)"]~~ *57-971)*"

"AN ACT relating to motor vehicles; requiring a ~~[vehicle dealer]~~ *provider of a vehicle service contract* to notify the buyer of a vehicle service contract if the provider ~~[of the vehicle service contract]~~ ceases doing business in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this]~~ *This* bill requires a ~~[vehicle dealer]~~ *provider of a vehicle service contract* to notify the buyer of a vehicle service contract in writing if the provider ~~[of the vehicle service contract]~~ ceases doing business in this State.

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

Section 1. Chapter ~~[482]~~ *690C* of NRS is hereby amended by adding thereto a new section to read as follows:

1. A ~~[vehicle dealer who has sold]~~ provider who, whether directly or through a vehicle dealer licensed pursuant to NRS 482.325, enters into a vehicle service contract ~~[to]~~ with a buyer shall, within 30 days after ~~[receiving notice that the provider of the vehicle service contract has ceased doing]~~ ceasing doing business in this State, notify ~~[the]~~ any buyer who purchased such a contract in writing of the fact that the provider has ceased

doing business in this State if the specified period of the vehicle service contract has not yet expired.

2. The provisions of this section do not:

(a) Render a service contract void pursuant to NRS 690C.250;

(b) Cancel a service contract pursuant to NRS 690C.270; or

(c) Release the provider from any liability imposed by a violation of any provision of this chapter.

3. As used in this section:

(a) "Buyer" means the buyer of a vehicle service contract.

(b) ~~["Provider" means a person who is obligated to a buyer of a vehicle service contract pursuant to the terms of the vehicle service contract to repair, replace or perform maintenance on, or to indemnify or reimburse the buyer for the costs of repairing, replacing or performing maintenance on, a motor vehicle.~~

~~(c)]~~ "Vehicle service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a buyer to repair, replace or perform maintenance on, or indemnify or reimburse the buyer for the costs of repairing, replacing or performing maintenance on, a motor vehicle which is described in the vehicle service contract and which has an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation, a contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service.

Sec. 1.5. NRS 690C.100 is hereby amended to read as follows:

690C.100 1. The provisions of this title do not apply to:

(a) A warranty;

(b) A maintenance agreement;

(c) A service contract provided by a public utility on its transmission device if the service contract is regulated by the Public Utilities Commission of Nevada;

(d) A service contract sold or offered for sale to a person who is not a consumer;

(e) A service contract for goods if the purchase price of the goods is less than $250; or

(f) ~~[A]~~ *Except as otherwise provided in section 1 of this act, a* service contract issued, sold or offered for sale by a vehicle dealer on vehicles sold by the dealer, if the dealer is licensed pursuant to NRS 482.325 and the service contract obligates either the dealer or the manufacturer of the vehicle, or an affiliate of the dealer or manufacturer, to provide all services under the service contract.

2. The sale of a service contract pursuant to this chapter does not constitute the business of insurance for the purposes of 18 U.S.C. §§ 1033 and 1034.

3. As used in this section:

(a) "Maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance.

(b) "Warranty" means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:

(1) Is not negotiated or separated from the sale of the goods;

(2) Is incidental to the sale of the goods; and

(3) Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.

Sec. 2. ~~[NRS 482.319 is hereby amended to read as follows:~~

~~482.319 1. A natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, *and section 1 of this act* shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

~~2. The Department shall include the statement required pursuant to subsection 1 in:~~

~~(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or~~

~~(b) A separate form prescribed by the Department.~~

~~3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, *and section 1 of this act* if the applicant is a natural person who:~~

~~(a) Fails to submit the statement required pursuant to subsection 1; or~~

~~(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.~~

~~4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.]~~ *(Deleted by amendment.)*

Sec. 3. ~~[1.]~~ This act becomes effective on October 1, 2007.

~~[2. Section 2 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~

~~(b) Are in arrears in the payment for the support of one or more children,~~

~~" are repealed by the Congress of the United States.]~~

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Rhoads moved that Assembly Bill No. 285 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Rhoads.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 247.

Bill read second time.

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

Amendment No. 937.

"SUMMARY—Makes various changes concerning billing for, collecting and bringing actions and enforcing judgments for delinquent payments for hospital care rendered at a hospital. (BDR 40-819)"

"AN ACT relating to hospitals; limiting the amount of interest and other charges that hospitals may impose for delinquent payments; revising the limitation on the period for commencing an action against a person who has a delinquent account with a hospital; ~~[revising provisions concerning liens placed upon the award to an injured person to pay for hospitalization;]~~ prohibiting a hospital from assigning a lien on real property obtained in connection with a delinquent payment for services rendered at the hospital; *authorizing the use of money that is reverted from the Health Insurance Flexibility and Accountability Holding Account in the State General Fund to the Fund for Hospital Care to Indigent Persons at the end of each fiscal year to pay claims for any previous fiscal years;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill provides that a hospital may not proceed with efforts to collect on any amount owed to the hospital ~~[,]~~ *for hospital care rendered*, other than copayments and deductibles, if the person responsible for paying the account has or may be eligible for insurance benefits or public assistance until the insurance or public program has been billed and the amount owed by the responsible party has been established. Collection efforts and interest may begin not sooner than 30 days after the responsible party has been sent

notice of the amount that he is responsible to pay. Section 5 further limits the amount of interest that a hospital may charge on a delinquent account to prime rate plus 2 percent and prohibits a hospital from imposing any other fees, including, without limitation, collection fees, attorney's fees or any other fees or costs other than court costs and attorney's fees awarded by a court.

Section 6 of this bill requires a hospital or other person acting on its behalf to collect any debt for any amount owed to the hospital for hospital care rendered at the hospital in a professional, fair and lawful manner and in accordance with the federal Fair Debt Collection Practices Act.

Existing law establishes certain periods during which an action may be commenced in court which apply when no other statutes specify a different period. (NRS 11.190) Existing law further provides that the time set forth in that statute is deemed to date from the last transaction. (NRS 11.200) Section 7 of this bill provides that the period for commencing an action against a person to recover payment for any amount owed to a hospital for hospital care provided to a person at a hospital is not later than ~~[2]~~ *4* years after the date on which any payment that is due for the services is not paid. The period is tolled, however, during any periods in which the hospital is awaiting a determination concerning eligibility for or the amount of benefits from an insurer or public program and during any period in which payments are being made.

~~[Existing law provides that a lien may be placed upon any amount awarded to an injured person who received hospitalization or his representative for amounts due to a hospital for the reasonable value of hospitalization rendered before the date of the judgment. (NRS 108.590) Section 8 of this bill provides that if the person who received hospitalization has health insurance or may be eligible for public assistance from a public program which may pay all or part of the bill, the lien may not be placed on the award to the injured person until the hospital has established the amount for which the person will be liable. In addition, section 8 provides that the lien may only be for the amount of that liability.]~~

Existing law creates a lien on the real property of a person for unpaid charges incurred at a county or district hospital and establishes certain procedures that must be followed with respect to such liens. (NRS 108.662) Section 9 of this bill prohibits a county or district hospital from assigning, selling or transferring the interest of the hospital in such a lien.

Existing law provides that any money remaining in the Health Insurance Flexibility and Accountability Holding Account in the State General Fund at the end of each fiscal year reverts to the Fund for Hospital Care to Indigent Persons created by NRS 428.175 and to the State General Fund in equal amounts. (NRS 428.305) Section 10 of this bill provides that any such money that is reverted from the Health Insurance Flexibility and Accountability Holding Account to the Fund for Hospital Care to Indigent Persons at the

end of each fiscal year may be used to pay claims for any previous fiscal years.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Hospital care" has the meaning ascribed to it in NRS 428.155.*

Sec. 4. *"Responsible party" means the person who received the hospital care, the parent or guardian of the person who received the hospital care or another natural person who is legally responsible or has agreed to be responsible for the payment to the hospital of any charges incurred in connection with the hospital care.*

Sec. 5. *1. When a person receives hospital care, the hospital must not proceed with any efforts to collect on any amount owed to the hospital for the hospital care from the responsible party, other than for any copayment or deductible, if the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, until the hospital has submitted a bill to the insurance company or public program and the insurance company or public program has made a determination concerning payment of the claim.*

2. Collection efforts may begin and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a bill by mail stating the amount that he is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank

in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.

3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney's fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without limitation, collection fees, other attorney's fees or any other fees or costs.

Sec. 6. *A hospital, or any person acting on its behalf who seeks to collect a debt from a responsible party for any amount owed to the hospital for hospital care must collect the debt in a professional, fair and lawful manner. When collecting such a debt, the hospital or other person acting on*

its behalf must act in accordance with sections 803 to 812, inclusive, of the federal Fair Debt Collection Practices Act, as amended, 15 U.S.C. §§ 1692a to 1692j, inclusive, even if the hospital or person acting on its behalf is not otherwise subject to the provisions of that Act.

Sec. 7. Chapter 11 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, an action against a person to recover payment for any amount owed to a hospital for hospital care provided to the person at the hospital must be commenced not later than ~~[2]~~ 4 years after the date on which any payment that is due for the services is not paid.

2. The period provided in subsection 1 is tolled during any periods in which the hospital is awaiting a determination concerning eligibility for, or the amount of, benefits from an insurer or public program and during any periods in which payments are being made.

3. As used in this section, "hospital care" has the meaning ascribed to it in NRS 428.155.

Sec. 8. ~~[NRS 108.590 is hereby amended to read as follows:~~

~~108.590 1. [Whenever] *Except as otherwise provided in subsection 2, whenever* any person receives hospitalization on account of any injury, and he, or his personal representative after his death, claims damages from the person responsible for causing the injury, the hospital has a lien upon any sum awarded the injured person or his personal representative by judgment or obtained by a settlement or compromise to the extent of the amount due the hospital for the reasonable value of the hospitalization rendered before the date of judgment, settlement or compromise.~~

~~2. *If the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill:*~~

~~*(a) The hospital may not place a lien upon the award to the injured person until the hospital has complied with the provisions of section 5 of this act.*~~

~~*(b) The lien provided pursuant to this section is valid only for the amount that is owed by the responsible party to the hospital as determined by the insurance company, Medicaid, the Children's Health Insurance Program or other public program.*~~

~~*3.* The lien provided by this section is:~~

~~(a) Not valid against anyone coming under the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.~~

~~(b) In addition to the lien provided by NRS 108.662.~~

~~*4. As used in this section, "responsible party" means the person who received the hospitalization, the parent or guardian of the person who received the hospitalization or other natural person who has agreed to be responsible for the payment to the hospital of any charges incurred in connection with such services.]~~ *(Deleted by amendment.)*

Sec. 9. NRS 108.662 is hereby amended to read as follows:

108.662 1. Except as otherwise provided in subsection 4, a county or district hospital has a lien upon the real property of a person for charges incurred and unpaid for the care of the owner of the property or a person for whose support the owner is legally responsible.

2. The notice of the lien must be served upon the owner by certified or registered mail and filed in the office of the county recorder of the county where the real property is located not sooner than 90 days nor later than:

(a) Three years after the patient's discharge; or

(b) One year after the patient defaults on payments made pursuant to a written contract,

➥ whichever is later, except that the notice may be served and filed within 6 months after any default pursuant to a written contract.

3. The notice of the lien must contain:

(a) The amount due;

(b) The name of the owner of record of the property; and

(c) A description of the property sufficient for identification.

4. If the amount due as stated in the notice of lien is reduced by payments and any person listed in subsection 2 of NRS 108.665 gives written notice of that reduction to the county or district hospital which recorded the lien, the county or district hospital shall amend the notice of lien stating the amount then due, within 10 days after it receives the written notice.

5. A county or district hospital shall not assign, sell or transfer the interest of the hospital in a lien created pursuant to this section.

Sec. 10. Any money that is reverted from the Health Insurance Flexibility and Accountability Holding Account in the State General Fund to the Fund for Hospital Care to Indigent Persons created by NRS 428.175 at the end of each fiscal year may be used to pay claims for any previous fiscal years, including, without limitation, claims incurred before July 1, 2005.

~~[Sec. 10.]~~ *Sec. 11.* The amendatory provisions of *sections 1 to 9, inclusive, of* this act apply to any debt accrued on or after October 1, 2007.

Sec. 12. 1. This section and section 10 of this act become effective upon passage and approval.

2. Sections 1 to 9, inclusive, and section 11 of this act become effective on October 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 253.

Bill read second time and ordered to third reading.

Assembly Bill No. 263.

Bill read second time.

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

Amendment No. 813.

"SUMMARY—Makes various changes to provisions governing the abuse and neglect of children. (BDR 38-598)"

"AN ACT relating to children; making various changes to provisions governing the abuse and neglect of children; ~~[requiring district attorneys, under certain circumstances, to prosecute certain incidents involving a child fatality;]~~ *requiring the Division of Child and Family Services of the Department of Health and Human Services to carry out certain actions against certain agencies which provide child welfare services for failure to take corrective action;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes an agency which provides child welfare services to organize one or more multidisciplinary teams to review the death of a child. (NRS 432B.405) Section 4 of this bill authorizes the Administrator of the Division of Child and Family Services of the Department of Health and Human Services to organize a multidisciplinary team to oversee the child fatality review process for such agencies. Section 5 of this bill imposes civil penalties upon members of teams and committees involved in the child fatality review process who disclose any confidential information concerning the death of the child. ~~[Section 6 of this bill provides that multidisciplinary and administrative teams may hold a closed meeting, or portion thereof, to consider confidential information related to a child fatality. A multidisciplinary team must prepare a written summary of any meeting or hearing and make such summary available to the public upon request.~~

~~Section 7 of this bill requires a district attorney to notify the appropriate district court of any incident that involves a child fatality and of his decision whether or not to prosecute. Section 7 further requires that in certain counties a grand jury be impaneled to inquire into the incident if the prosecutor decides not to prosecute. The district attorney shall prosecute the case if the grand jury completes its inquiry and returns an indictment. Section 7 also requires the court to forward information received from the district attorneys to the Court Administrator. Section 20 of this bill requires the Court Administrator to compile the information and provide an annual report to the Director of the Legislative Counsel Bureau. The report also must be made available to the public.]~~

Section 8 of this bill requires the Division of Child and Family Services to evaluate child welfare services provided in this State and ~~[to take certain]~~ *provides that the Division must require* corrective action against an agency which provides child welfare services that fails to comply with federal or state laws relating to the provision of child welfare services. *If such an agency does not take corrective action within a timely manner, the Division shall take certain action against the agency.* (NRS 432B.180)

Section 12 of this bill expands existing law by authorizing a designee of an agency investigating a report of abuse or neglect of a child to interview a

sibling of the child concerning any possible abuse or neglect without the consent of any person responsible for the child's welfare. (NRS 432B.270)

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

Section 1. NRS 432.0155 is hereby amended to read as follows:

432.0155 1. The Department, through the Division, is the sole state agency for the establishment of standards for the receipt of federal money in the field of ~~[juvenile]~~ *:*

(a) Juvenile development and for programs to prevent, combat and control delinquency ~~[.]~~ *; and*

(b) Child welfare and child welfare services.

➥ *The Department, through the Division, shall enforce such standards.*

2. The Administrator, with the approval of the Director, may develop *and enforce* state plans, make reports to the Federal Government and comply with such other conditions as may be imposed by the Federal Government for the receipt of assistance for ~~[those]~~ *such* programs ~~[.]~~ *and services described in subsection 1.* In developing and revising state plans, the Administrator shall consider, among other things, the amount of money available from the Federal Government for ~~[those]~~ *such* programs and *services,* the conditions attached to that money ~~[,]~~ and the limitations of legislative appropriations for the programs ~~[.]~~ *and services.*

~~[2.]~~ *3.* The Administrator shall cause to be deposited with the State Treasurer all money allotted to this State by the Federal Government for the purposes described in this section and shall cause to be paid out of the State Treasury the money therein deposited for those purposes.

4. As used in this section, "child welfare services" has the meaning ascribed to it in NRS 432B.044.

Sec. 2. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 7, inclusive, of this act.

Sec. 3. (Deleted by amendment.)

Sec. 4. *1. The Administrator of the Division of Child and Family Services may organize a multidisciplinary team to oversee any review of the death of a child conducted by a multidisciplinary team that is organized by an agency which provides child welfare services pursuant to NRS 432B.405.*

2. A multidisciplinary team organized pursuant to subsection 1 is entitled to the same access and privileges granted to a multidisciplinary team to review the death of a child pursuant to NRS 432B.407.

Sec. 5. *1. Each member of a multidisciplinary team organized pursuant to NRS 432B.405, a multidisciplinary team organized pursuant to section 4 of this act, an administrative team organized pursuant to NRS 432B.408 or the Executive Committee to Review the Death of Children established pursuant to NRS 432B.409 who discloses any confidential information concerning the death of a child is personally liable for a civil penalty of not more than $500.*

2. The Administrator of the Division of Child and Family Services:

(a) May bring an action to recover a civil penalty imposed pursuant to subsection 1 against a member of a multidisciplinary team organized pursuant to section 4 of this act, an administrative team or the Executive Committee; and

(b) Shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

3. Each director or other authorized representative of ~~[the]~~ an agency which provides child welfare services that organized a multidisciplinary team pursuant to NRS 432B.405:

(a) May bring an action to recover a civil penalty pursuant to subsection 1 against a member of the multidisciplinary team; and

(b) Shall deposit any money received from the civil penalty in the appropriate county treasury.

Sec. 6. ~~*[1. Except as otherwise provided in subsection 2, a meeting or hearing to carry out the purposes of this section and NRS 432B.403 to 432B.409, inclusive, and sections 4, 5 and 6 of this act that is held by a multidisciplinary team organized pursuant to NRS 432B.405 or an administrative team organized pursuant to NRS 432B.408 and any deliberations are subject to any provision of chapter 241 of NRS.*~~

~~*2. A multidisciplinary team or an administrative team may hold a closed meeting or close a portion of a meeting to discuss or consider confidential information concerning a particular child fatality or near fatality as defined in NRS 432B.290.*~~

~~*3. Within a reasonable time after holding a meeting or hearing to carry out the purposes of this section and NRS 432B.403 to 432B.409, inclusive, and sections 4, 5 and 6 of this act, a multidisciplinary team shall prepare a written summary of the meeting or hearing. The summary must be made available to the public upon request.]*~~ *(Deleted by amendment.)*

Sec. 7. ~~*[1. A district attorney shall notify the appropriate district court of any incident that involves a child fatality and of his decision whether or not to prosecute.*~~

~~*2. In a county whose population is 100,000 or more, when a district attorney notifies a district court pursuant to subsection 1 of a decision not to prosecute in relation to an incident that involves a child fatality:*~~

~~*(a) The district judge shall impanel a grand jury to inquire into the incident; and*~~

~~*(b) The district attorney shall appear before the grand jury and present evidence concerning the incident.*~~

~~*3. If the grand jury returns an indictment after inquiring into an incident that involves a child fatality:*~~

~~*(a) The indictment must be returned in the manner set forth in NRS 172.255; and*~~

~~*(b) The district attorney shall prosecute the person identified by the grand jury as having committed an offense.*~~

~~*4. The failure of the grand jury to return an indictment after inquiring into an incident that involves a child fatality does not prevent the district attorney from prosecuting a person who was a subject of the grand jury investigation if the district attorney subsequently discovers additional evidence against the person.*~~

~~*5. Each district court shall forward to the Court Administrator at such times as the Court Administrator requests:*~~

~~*(a) Any information received from a district attorney pursuant to this section concerning a child fatality;*~~

~~*(b) Information concerning whether a grand jury was impaneled; and*~~

~~*(c) If a grand jury was impaneled, whether the grand jury returned an indictment.]*~~ *(Deleted by amendment.)*

Sec. 8. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. Plan, coordinate and monitor the delivery of child welfare services provided throughout the State.

3. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

4. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.

5. Involve communities in the improvement of child welfare services.

6. Evaluate all child welfare services provided throughout the State and ~~[withhold money from any agency providing]~~ *, if an agency which provides child welfare services is not complying with any federal or state law relating to the provision of child welfare services, regulations adopted pursuant to those laws or statewide plans or policies relating to the provision of child welfare services,* ~~*[recommend]*~~ *require corrective action* ~~*[to]*~~ *of the agency which provides child welfare services.*

7. If ~~*[the]*~~ *an agency which provides child welfare services fails to take corrective action required pursuant to subsection 6 within a reasonable period,* ~~*[the Division shall]*~~ *take one or more of the following actions against* ~~*[an]*~~ *the agency which provides child welfare services:* ~~[child welfare services which is not complying with the regulations adopted by the Division of Child and Family Services.~~

~~7. Evaluate the plans submitted for approval pursuant to NRS 432B.395.]~~

(a) Withhold money from the agency which provides child welfare services;

(b) Impose an administrative fine against the agency which provides child welfare services;

(c) Provide the agency which provides child welfare services with direct supervision and recover the cost and expenses incurred by the Division in providing such supervision; and

(d) Require the agency which provides child welfare services to determine whether it is necessary to impose disciplinary action that is consistent with the personnel rules of the agency which provides child welfare services against an employee who substantially contributes to the noncompliance of the agency which provides child welfare services with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies, including, without limitation, suspension of the employee without pay, if appropriate.

➥ *The Division shall adopt regulations to carry out the provisions of this subsection, including, without limitation, regulations which prescribe the circumstances under which action must be taken against an agency which provides child welfare services for failure to take corrective action and which specify that any such action by the Division must not impede the provision of child welfare services.*

8. ~~*[7.]*~~ In consultation with each agency which provides child welfare services, request sufficient money for the provision of child welfare services throughout this State.

~~*[8.]*~~ *9. Deposit any money received from the administrative fines imposed pursuant to this section with the State Treasurer for credit to the State General Fund. The State Treasurer shall account separately for the money deposited pursuant to this subsection. The money in the account may only be used by the Division to improve the provision of child welfare services in this State* ~~*[.]*~~ *, including, without limitation:*

(a) To pay the costs associated with providing training and technical assistance and conducting quality improvement activities for an agency which provides child welfare services to assist the agency in any area in which the agency has failed to take corrective action; and

(b) Hiring a qualified consultant to conduct such training, technical assistance and quality improvement activities.

Sec. 9. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

(a) Child welfare services provided in this State;

(b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;

(c) The development of local councils involving public and private organizations;

(d) Reports of abuse or neglect, records of these reports and the response to these reports;

(e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide

child welfare services enter into agreements to provide services to children and families;

(f) The management and assessment of reported cases of abuse or neglect;

(g) The protection of the legal rights of parents and children;

(h) Emergency shelter for a child;

(i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) ~~[Evaluating the development and contents of a plan submitted for approval pursuant to NRS 432B.395;~~

~~(k)]~~ Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and

(II) Persons who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, during all stages of the proceeding; and

~~[(l)]~~ *(k)* Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child; and

2. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive ~~[.]~~ *, and sections 4 and 5 of this act.*

Sec. 10. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to *an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and* the appropriate medical examiner or coroner ~~[, who]~~ *of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection* shall investigate the report and submit *his written findings* to ~~[an]~~ *the appropriate* agency which provides child welfare services ~~[his written findings.]~~ *, the appropriate district attorney and a law enforcement agency.* The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 11. NRS 432B.260 is hereby amended to read as follows:

432B.260 1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:

(a) The child is 5 years of age or younger;

(b) There is a high risk of serious harm to the child; ~~[or]~~

(c) *The child has suffered a fatality; or*

(d) The child is living in a household in which another child has died, or the child is seriously injured or has visible signs of physical abuse.

3. Except as otherwise provided in subsection 2, upon receipt of a report concerning the possible abuse or neglect of a child or notification from a law enforcement agency that the law enforcement agency has received such a report, an agency which provides child welfare services shall conduct an evaluation not later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if:

(a) The child is not in imminent danger of harm;

(b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens his immediate health or safety;

(c) The alleged abuse or neglect of the child or the alleged effect of prenatal illegal substance abuse on or the withdrawal symptoms resulting from *any* prenatal drug exposure of the newborn infant could be eliminated if the child and his family ~~[receive]~~ *are referred to* or participate in social or health services offered in the community, or both; or

(d) The agency determines that the:

(1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment, including, without limitation, spanking or paddling; and

(2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.

5. If an agency which provides child welfare services investigates a report of alleged abuse or neglect of a child pursuant to NRS 432B.010 to 432B.400, inclusive, the agency shall inform the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child of any allegation which is made against the person at the initial time of contact with the person by the agency. The agency shall not identify the person responsible for reporting the alleged abuse or neglect.

6. Except as otherwise provided in this subsection, if the agency determines that an investigation is not warranted, the agency may, as appropriate:

(a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or

(b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

➥ If an agency determines that an investigation is not warranted for the reason set forth in paragraph (d) of subsection 3, the agency shall take no further action in regard to the matter and shall delete all references to the matter from its records.

7. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or his family pursuant to subsection 6, the agency shall require the person to notify the agency if the child or his family ~~[refuse or fail]~~ *refuses or fails* to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

8. An agency which provides child welfare services that determines that an investigation is not warranted may, at any time, reverse that determination and initiate an investigation.

9. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

Sec. 12. NRS 432B.270 is hereby amended to read as follows:

432B.270 1. A designee of an agency investigating a report of abuse or neglect of a child may, without the consent of and outside the presence of any person responsible for the child's welfare, interview a child *and any sibling of the child* *, if an interview is deemed appropriate by the designee,* concerning any possible abuse or neglect. The child *and any sibling of the child* may be interviewed *, if an interview is deemed appropriate by the designee,* at any place where ~~[he]~~ *the child or his sibling* is found. *A designee who conducts an interview pursuant to this subsection must be trained adequately to interview children.* The designee shall, immediately after the conclusion of the interview, if reasonably possible, notify a person responsible for the child's welfare that the child *or his sibling* was interviewed, unless the designee determines that such notification would endanger the child ~~[.]~~ *or his sibling.*

2. A designee of an agency investigating a report of abuse or neglect of a child may, without the consent of the person responsible for a child's welfare:

(a) Take or cause to be taken photographs of the child's body, including the areas of trauma; and

(b) If indicated after consultation with a physician, cause X rays or medical tests to be performed on a child.

3. Upon the taking of any photographs or X rays or the performance of any medical tests pursuant to subsection 2, the person responsible for the

child's welfare must be notified immediately, if reasonably possible, unless the designee determines that the notification would endanger the child. The reasonable cost of these photographs, X rays or medical tests must be paid by the agency which provides child welfare services if money is not otherwise available.

4. Any photographs or X rays taken or records of any medical tests performed pursuant to subsection 2, or any medical records relating to the examination or treatment of a child pursuant to this section, or copies thereof, must be sent to the agency which provides child welfare services, the law enforcement agency participating in the investigation of the report and the prosecuting attorney's office. Each photograph, X ray, result of a medical test or other medical record:

(a) Must be accompanied by a statement or certificate signed by the custodian of medical records of the health care facility where the photograph or X ray was taken or the treatment, examination or medical test was performed, indicating:

(1) The name of the child;

(2) The name and address of the person who took the photograph or X ray, performed the medical test, or examined or treated the child; and

(3) The date on which the photograph or X ray was taken or the treatment, examination or medical test was performed;

(b) Is admissible in any proceeding relating to the abuse or neglect of the child; and

(c) May be given to the child's parent or guardian if he pays the cost of duplicating them.

5. As used in this section, "medical test" means any test performed by or caused to be performed by a provider of health care, including, without limitation, a computerized axial tomography scan and magnetic resonance imaging.

Sec. 13. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. ~~[Reports]~~ *Except as otherwise* ~~*[provided in subsection 2 of]*~~ *authorized or required pursuant to NRS 432B.290, reports* made pursuant to this chapter, as well as all records concerning these reports and investigations thereof, are confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases data or information concerning such reports and investigations, except:

(a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;

(b) As otherwise authorized or required pursuant to NRS 432B.290; or

(c) As otherwise required pursuant to NRS 432B.513,

➥ is guilty of a misdemeanor.

Sec. 14. (Deleted by amendment.)

Sec. 15. NRS 432B.300 is hereby amended to read as follows:

432B.300 Except as otherwise provided in NRS 432B.260, an agency which provides child welfare services shall investigate each report of abuse or neglect received or referred to it to determine:

1. The composition of the family, household or facility, including the name, address, age, sex and race of each child named in the report, any siblings or other children in the same place or under the care of the same person, the persons responsible for the children's welfare and any other adult living or working in the same household or facility;

2. Whether there is reasonable cause to believe any child is abused or neglected or threatened with abuse or neglect, the nature and extent of existing or previous injuries, abuse or neglect and any evidence thereof, and the person apparently responsible;

3. *Whether there is reasonable cause to believe that a child has suffered a fatality as a result of abuse or neglect regardless of whether or not there are any siblings of the child or other children who are residing in the same household as the child who is believed to have suffered a fatality as a result of abuse or neglect;*

4. If there is reasonable cause to believe that a child is abused or neglected, the immediate and long-term risk to the child if he remains in the same environment; and

~~[4.]~~ *5.* The treatment and services which appear necessary to help prevent further abuse or neglect and to improve his environment and the ability of the person responsible for the child's welfare to care adequately for him.

Sec. 16. NRS 432B.310 is hereby amended to read as follows:

432B.310 1. Except as otherwise provided in subsection 6 of NRS 432B.260, the agency investigating a report of abuse or neglect of a child shall, upon completing the investigation, report to the Central Registry:

(a) Identifying and demographic information on the child alleged to be abused or neglected, his parents, any other person responsible for his welfare and the person allegedly responsible for the abuse or neglect;

(b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted , ~~[and]~~ the severity of the injuries ~~[;]~~ *and, if applicable, any information concerning the death of the child;* and

(c) The disposition of the case.

2. An agency which provides child welfare services shall not report to the Central Registry any information concerning a child identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure unless the agency determines that a person has abused or neglected the child.

3. As used in this section, "Central Registry" has the meaning ascribed to it in NRS 432.0999.

Sec. 17. NRS 432B.403 is hereby amended to read as follows:

432B.403 The purpose of organizing multidisciplinary teams to review the deaths of children pursuant to NRS 432B.403 to 432B.409, inclusive, *and sections 4 ~~[,]~~ and 5 ~~[and 6]~~ of this act* is to:

1. Review the records of selected cases of deaths of children under 18 years of age in this State;

2. Review the records of selected cases of deaths of children under 18 years of age who are residents of Nevada and who die in another state;

3. Assess and analyze such cases;

4. Make recommendations for improvements to laws, policies and practice;

5. Support the safety of children; and

6. Prevent future deaths of children.

Sec. 18. NRS 432B.405 is hereby amended to read as follows:

432B.405 1. ~~[An]~~ *The director or other authorized representative of an* agency which provides child welfare services:

(a) May *provisionally appoint and* organize one or more multidisciplinary teams to review the death of a child; ~~[and]~~

(b) *Shall submit names to the Executive Committee to Review the Death of Children established pursuant to NRS 432B.409 for review and approval of persons whom the director or other authorized representative recommends for appointment to a multidisciplinary team to review the death of a child; and*

(c) Shall organize one or more multidisciplinary teams to review the death of a child under any of the following circumstances:

(1) Upon receiving a written request from an adult related to the child within the third degree of consanguinity, if the request is received by the agency within 1 year after the date of death of the child;

(2) If the child dies while in the custody of or involved with an agency which provides child welfare services, or if the child's family previously received services from such an agency;

(3) If the death is alleged to be from abuse or neglect of the child;

(4) If a sibling, household member or daycare provider has been the subject of a child abuse and neglect investigation within the previous 12 months, including *, without limitation,* cases in which the report was unsubstantiated or the investigation is currently pending;

(5) If the child was adopted through an agency which provides child welfare services; or

(6) If the child died of Sudden Infant Death Syndrome.

2. A review conducted pursuant to subparagraph (2) of paragraph ~~[(b)]~~ *(c)* of subsection 1 must occur within 3 months after the issuance of a certificate of death.

Sec. 19. NRS 432B.409 is hereby amended to read as follows:

432B.409 1. The Administrator of the Division of Child and Family Services shall establish an Executive Committee to Review the Death of Children, consisting of representatives from multidisciplinary teams formed

pursuant to *paragraph (a) of subsection 1 of* NRS 432B.405 and *NRS* 432B.406, vital statistics, law enforcement, public health and the Office of the Attorney General.

2. The Executive Committee shall:

(a) Adopt statewide protocols for the review of the death of a child;

(b) ~~[Designate the members of an administrative team for the purposes of NRS 432B.408;]~~ *Adopt regulations to carry out the provisions of NRS 432B.403 to 432B.409, inclusive, and sections 4 ~~[,]~~ and 5 ~~[and 6]~~ of this act;*

(c) Adopt bylaws to govern the management and operation of the Executive Committee;

(d) Appoint one or more multidisciplinary teams to review the death of a child from the names submitted to the Executive Committee pursuant to paragraph (b) of subsection 1 of NRS 432B.405;

~~[(c)]~~ *(e)* Oversee training and development of multidisciplinary teams to review the death of children; and

~~[(d)]~~ *(f)* Compile and distribute a statewide annual report, including statistics and recommendations for regulatory and policy changes.

3. The Review of Death of Children Account is hereby created in the State General Fund. The Executive Committee may use money in the Account to carry out the provisions of NRS 432B.403 to 432B.409, inclusive ~~[.]~~ *, and sections 4 ~~[,]~~ and 5 ~~[and 6]~~ of this act.*

Sec. 20. ~~[Chapter 2 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. On or before February 1 of each year, the Court Administrator shall submit a report to the Director of the Legislative Counsel Bureau compiling the information received pursuant to section 7 of this act. The report must include, without limitation:*~~

~~*(a) The name of each child who suffered a child fatality in this State during the previous calendar year;*~~

~~*(b) Whether the district attorney prosecuted the case;*~~

~~*(c) Whether the district court impaneled a grand jury to inquire into the incident; and*~~

~~*(d) If a grand jury was impaneled, whether the grand jury returned an indictment in the case.*~~

~~*2. The report prepared pursuant to this section must be made available to the public.]*~~ *(Deleted by amendment.)*

Sec. 21. NRS 432B.395 is hereby repealed.

Sec. 22. 1. The Department of Health and Human Services shall submit a report to the Interim Finance Committee, the Legislative Committee on Health Care and any other interim committee of the Nevada Legislature that has oversight of child welfare services concerning each action taken pursuant to subsection 7 of NRS 432B.180, as amended by section 8 of this act, during the 2007-2009 interim. Each report must be submitted within 30 days after the Division of Child and Family Services of the Department

has taken action against an agency which provides child welfare services for failure to take corrective action and must include, without limitation:

(a) The action taken by the Division;

(b) The purpose for taking such action, including, without limitation, the corrective action that the agency failed to take;

(c) The amount of money withheld from the agency or the amount of the administrative fine imposed against the agency, if applicable; and

(d) If an administrative fine was imposed pursuant NRS 432B.180, the manner in which the Division expended the money.

2. On or before January 1, 2009, the Department shall submit to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature a cumulative summary of all reports submitted pursuant to subsection 1.

TEXT OF REPEALED SECTION

432B.395 Plan of efforts to prevent or eliminate need for removal of child from home and to make safe return to home possible. An agency which provides child welfare services shall submit annually to the Division of Child and Family Services for its approval a plan to ensure that the reasonable efforts required by subsection 1 of NRS 432B.393 are made by that agency.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 319.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 869.

"SUMMARY—Pledges that the retirement benefits for certain public employees will not be increased without adequate funding. (BDR 23-750)"

"AN ACT relating to public employees' retirement; pledging that the Legislature will not increase the retirement benefits for certain public employees unless the retirement fund from which the benefits will be paid is funded at or above a certain level; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the retirement benefits of public employees under the Public Employees' Retirement System are generally governed by the provisions of chapter 286 of NRS. There are two separate retirement funds established under the System pursuant to chapter 286 of NRS, the Public Employees' Retirement Fund and the Police and Firefighters' Retirement Fund. (NRS 286.220, 286.225) This bill sets forth the pledge of the Legislature that it will not increase any benefit or allowance payable under the System pursuant to chapter 286 of NRS ~~[that is not cost-neutral]~~ unless

the actuarial value of the assets of the retirement fund from which the benefit or allowance will be paid is equal to or greater than 85 percent of the actuarial accrued liabilities of that retirement fund.

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

Section 1. Chapter 286 of NRS is hereby amended by adding thereto a new section to read as follows:

The Legislature hereby pledges that it will not enact any law which has the effect of increasing any benefit or allowance payable under the System pursuant to this chapter ~~[that is not cost neutral]~~ unless the actuarial value of the assets of the retirement fund from which the benefit or allowance will be paid is equal to or greater than 85 percent of the actuarial accrued liabilities of that retirement fund, as determined in accordance with generally accepted accounting principles for government as prescribed by the Governmental Accounting Standards Board.

Sec. 2. (Deleted by amendment.)

Sec. 3. *This act becomes effective upon passage and approval.*

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 321.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 830.

"SUMMARY—Exempts certain vehicles from inspection requirements for the control of emissions. (BDR 43-1185)"

"AN ACT relating to motor vehicles; exempting replica vehicles from inspection requirements for the control of emissions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that the Department of Motor Vehicles may not register more than 100 replica vehicles per year. Existing law exempts military tactical vehicles from the inspection requirements required by chapter 445B of NRS. (NRS 445B.759) Section ~~[2]~~ *2* of this bill defines "replica vehicles" and expands the exemption to apply to replica vehicles as well.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department may not issue a certificate of registration for more than 100 replica vehicles each year. The fact that the vehicle is to be

registered as a replica vehicle must be stated in the application for registration.

2. For purposes of this section, "replica vehicle" has the meaning ascribed to it in NRS 445B.759.

Sec. 2. NRS 445B.759 is hereby amended to read as follows:

445B.759 1. The provisions of NRS 445B.700 to 445B.845, inclusive, do not apply to ~~[military]~~ *:*

(a) Military tactical vehicles ~~[.]~~ *; or*

(b) Replica vehicles.

2. As used in this section ~~[, "military tactical vehicle"]~~ *:*

(a) "Military tactical vehicle" means a motor vehicle that is:

~~[(a)]~~ *(1)* Owned or controlled by the United States Department of Defense or by a branch of the Armed Forces of the United States; and

~~[(b)]~~ *(2)* Used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(b) "Replica vehicle" means any passenger car or light-duty motor vehicle which:

(1) Has a body manufactured after 1968 which is made to resemble a vehicle of a model manufactured before 1968;

(2) Has been altered from the original design of the manufacturer or has a body constructed from materials which are not original to the vehicle;

(3) Is maintained solely for ~~[occasional transportation, including]~~ exhibitions, club activities, parades, tours or other similar uses; and

(4) Is not used for daily transportation.

➥ *The term does not include a vehicle which has been restored to its original design by replacing parts.*

Sec. 3. This act becomes effective on July 1, 2007.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 322.

Bill read second time and ordered to third reading.

Assembly Bill No. 334.

Bill read second time.

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

Amendment No. 814.

"SUMMARY—Revises provisions governing charter schools. (BDR 34-413)"

"AN ACT relating to education; creating a school district for charter schools sponsored by the State Board of Education for federal law purposes; revising provisions governing the closure of a charter school; clarifying certain provisions governing the payments of money to a charter school for

the enrollment of certain pupils; revising provisions governing the employment of administrators for a charter school; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the board of trustees of a school district may sponsor charter schools and the State Board of Education may sponsor charter schools. (NRS 386.515) Section 2 of this bill creates a school district to be designated as the Charter School District for State Board-Sponsored Charter Schools. The School District is created for the sole purpose of federal law governing charter schools.

Section 3 of this bill provides that upon closure of a charter school, an administrator of the charter school shall act as a trustee of certain records during the process of closure and for 1 year after the date of closure. If an administrator is not available, the governing body of the charter school shall appoint a qualified person to perform the duties of trustee.

Under existing law, a charter school must accept for enrollment in certain classes, if space is available, children who are otherwise enrolled in a public school or a private school or homeschooled children. (NRS 386.580) Under existing law, these children are included in the count of pupils for the purposes of the basic support guarantee of the State Distributive School Account. (NRS 387.123, 387.1233) Section 5 of this bill clarifies the legislative declaration concerning the formation of charter schools to provide that the declaration does not preclude the payment of money to a charter school for the enrollment of these children in classes at a charter school. (NRS 386.505)

Under existing law, a charter school may employ administrators for the school who meet certain eligibility requirements. (NRS 386.590) Section 6 of this bill revises provisions governing the employment of those administrators and revises the eligibility requirements.

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

Section 1. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *There is hereby created a school district to be designated as the Charter School District for State Board-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the State Board. The State Board is hereby deemed the board of trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the District for purposes of federal law governing charter schools.*

Sec. 3. *1. Except as otherwise provided in subsection 2, if a charter school ceases to operate voluntarily or upon revocation of its written charter, the governing body of the charter school shall appoint an administrator of the charter school to act as a trustee during the process of*

the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

(a) Charter school;

(b) Employees of the charter school; and

(c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. The governing body of the charter school may, to the extent practicable, provide financial compensation to the administrator or person appointed pursuant to subsection 2 to carry out the provisions of this section.

Sec. 4. NRS 386.500 is hereby amended to read as follows:

386.500 For the purposes of NRS 386.500 to 386.610, inclusive, *and sections 2 and 3 of this act,* a pupil is "at risk" if he has an economic or academic disadvantage such that he requires special services and assistance to enable him to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are limited English proficient, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 5. NRS 386.505 is hereby amended to read as follows:

386.505 The Legislature declares that by authorizing the formation of charter schools it is not authorizing:

1. The conversion of an existing public school, home school or other program of home study to a charter school.

2. A means for providing financial assistance for private schools or programs of home study. The provisions of this subsection do not preclude ~~[a]~~ *:*

(a) A private school from ceasing to operate as a private school and reopening as a charter school in compliance with the provisions of NRS 386.500 to 386.610, inclusive ~~[.]~~ *, and sections 2 and 3 of this act.*

(b) The payment of money to a charter school for the enrollment of children in classes at the charter school pursuant to subsection 5 of NRS 386.580 who are enrolled in a public school of a school district or a private school or who are homeschooled.

3. The formation of charter schools on the basis of a single race, religion or ethnicity.

Sec. 5.5. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the State Board or the board of trustees of a school district approves an application to form a charter school, it shall grant a written charter to the applicant. The State Board or the board of trustees, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the State Board approves the application:

(a) The State Board shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. ~~[Upon the initial renewal of a written charter and each renewal thereafter, the]~~ *The* governing body of a charter school may request *, at any time,* a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt ~~[objective]~~ *:*

(a) An application process for a charter school that requests a change in the sponsorship of the charter school, which must not require the applicant to undergo the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

4. Except as otherwise provided in subsection 6, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in paragraphs (a) to (o), inclusive, of subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State Board is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

5. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently ~~[enrolled]~~ *approved for enrollment* in the charter school if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate. If the proposed amendment complies with the provisions of this section, NRS 386.500 to 386.610, inclusive, *and sections 2 and 3 of this act,* and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade

levels of pupils currently ~~[enrolled]~~ *approved for enrollment* in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.

6. The State Board shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➥ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

7. The holder of a written charter that is issued pursuant to subsection 6 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the State Board pursuant to subsection 6 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➥ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 6. NRS 386.590 is hereby amended to read as follows:

386.590 1. Except as otherwise provided in this subsection, at least 70 percent of the teachers who provide instruction at a charter school must be licensed teachers. If a charter school is a vocational school, the charter school shall, to the extent practicable, ensure that at least 70 percent of the teachers who provide instruction at the school are licensed teachers, but in no event

may more than 50 percent of the teachers who provide instruction at the school be unlicensed teachers.

2. A governing body of a charter school shall employ:

(a) If the charter school offers instruction in kindergarten or grade 1, 2, 3, 4, 5, 6, 7 or 8, a licensed teacher to teach pupils who are enrolled in those grades. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).

(b) If the charter school offers instruction in grade 9, 10, 11 or 12, a licensed teacher to teach pupils who are enrolled in those grades for the subjects set forth in subsection 4. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).

(c) In addition to the requirements of paragraphs (a) and (b):

(1) If a charter school specializes in arts and humanities, physical education or health education, a licensed teacher to teach those courses of study.

(2) If a charter school specializes in the construction industry or other building industry, licensed teachers to teach courses of study relating to the industry if those teachers are employed full time.

(3) If a charter school specializes in the construction industry or other building industry and the school offers courses of study in computer education, technology or business, licensed teachers to teach those courses of study if those teachers are employed full time.

3. A person who is initially hired by the governing body of a charter school on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not "initially hired" if he has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.

4. A teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, 2006, possess the qualifications required by 20 U.S.C. § 6319(a) if he teaches one or more of the following subjects:

(a) English, reading or language arts;
(b) Mathematics;
(c) Science;
(d) Foreign language;
(e) Civics or government;
(f) Economics;
(g) Geography;
(h) History; or
(i) The arts.

5. Except as otherwise provided in NRS 386.588, a charter school may employ a person who is not licensed pursuant to the provisions of chapter 391 of NRS to teach a course of study for which a licensed teacher is not required pursuant to subsections 2, 3 and 4 if the person has:

(a) A degree, a license or a certificate in the field for which he is employed to teach at the charter school; and

(b) At least 2 years of experience in that field.

6. Except as otherwise provided in NRS 386.588, a charter school ~~[may]~~ *shall* employ such administrators for the school as it deems necessary. A person employed as an administrator must possess:

(a) A valid teacher's license issued pursuant to chapter 391 of NRS with an administrative endorsement;

(b) A master's degree in school administration, public administration or business administration; or

(c) ~~[If the person has at]~~ *At* least 5 years of experience in *school* administration, *public administration or business administration and* a baccalaureate degree.

7. ~~*[The]*~~ *Except as otherwise provided in subsection 8, the portion of the salary or other compensation of an administrator employed by a charter school that is derived from public funds must not exceed the salary or other compensation, as applicable, of the highest paid administrator in a comparable position in the school district in which the charter school is located. For purposes of determining the salary or other compensation of the highest paid administrator in a comparable position in the school district, the salary or other compensation of the superintendent of schools of that school district must not be included in the determination.*

8. If the salary or other compensation paid to an administrator employed by a charter school from public funds exceeds the maximum amount prescribed in subsection 7, the sponsor of the charter school shall conduct an audit of the salary or compensation. The audit must include, without limitation, a review of the reasons set forth by the governing body of the charter school for the salary or other compensation and the interests of the public in using public funds to pay that salary or compensation. If the sponsor determines that the payment of the salary or other compensation from public funds is justified, the sponsor shall provide written documentation of its determination to the governing body of the charter school and to the Department. If the sponsor determines that the payment of the salary or other compensation from public funds is not justified, the governing body of the charter school shall reduce the salary or compensation paid to the administrator from public funds to an amount not to exceed the maximum amount prescribed in subsection 7.

9. A charter school shall not employ a person pursuant to this section if his license to teach or provide other educational services has been revoked or suspended in this State or another state.

~~[8.]~~ ~~*[9.]*~~ *10.* On or before November 15 of each year, a charter school shall submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the following information for each licensed employee who is employed by the governing body on October 1 of that year:

(a) The amount of salary of the employee ~~[.]~~ *, including, without limitation, verification of compliance with subsection 7, if applicable to that employee;* and

(b) The designated assignment, as that term is defined by the Department, of the employee.

Sec. 7. If a person is employed by a charter school as an administrator before July 1, 2007, and he qualified for that position pursuant to paragraph (c) of subsection 6 of NRS 386.590, the person may continue employment in that position even if he does not satisfy the qualifications set forth in section 6 of this act.

Sec. 8. If a person is employed by a charter school as an administrator before July 1, 2007, and the contract of employment with the administrator provides for a salary *or other compensation* that violates subsection 7 of NRS 386.590, as amended by section 6 of this act, the administrator may continue to receive that salary *or other compensation* only through the term of the existing contract of employment. Any new contract or renewal of the existing contract with that administrator must comply with subsection 7 of NRS 386.590, as amended by section 6 of this act.

Sec. 9. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bill No. 364 be taken from the Second Reading File and placed on the Second Reading File on the third agenda.

Remarks by Senator Care.

Motion carried.

Senator Nolan moved that the action whereby Amendment No. 830 to Assembly Bill No. 321 was adopted be rescinded.

Motion carried.

Senator Nolan moved that Assembly Bill No. 321 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Senator McGinness moved that Assembly Bill No. 461 be taken from the Second Reading File and placed on the Second Reading File on the third agenda.

Remarks by Senator McGinness.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 342.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 798.

"SUMMARY—Makes various changes to the process of casting a mailing ballot in mailing precincts. (BDR 24-689)"

"AN ACT relating to elections; providing under certain circumstances that a registered voter who lives in a mailing precinct or an absent ballot mailing precinct of a county who has received a mailing ballot may vote in person at the office of the county clerk or at designated polling places on election day or at polling places during the period for early voting; requiring certain county clerks to designate at least one polling place to be the polling place ~~[to which]~~ *where* any registered voter who lives in any of the mailing precincts or absent ballot mailing precincts of the county may ~~[apply to]~~ vote in person on election day; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 4 of this bill requires county clerks in counties with a population of 100,000 or more to designate at least one polling place in the county as the polling place where a person who lives in a mailing precinct or an absent ballot mailing precinct may vote in person on election day. In counties with a population of less than 100,000, section 4 provides that a county clerk may, but is not required to, designate such a polling place. Section 6 *of this bill* prohibits the return of a mailing ballot by any person other than the registered voter to whom the ballot was sent unless a family member returns the ballot at the request of the voter. A person who violates this provision is guilty of a category E felony.

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. NRS 293.343 is hereby amended to read as follows:

293.343 1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding general election, or in a precinct in which it appears to the satisfaction of the county clerk that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

2. Whenever the county clerk has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

3. In a county whose population is 100,000 or more, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) Shall designate at least one polling place in the county as the polling place ~~[to which]~~ where such a voter may ~~[apply to]~~ vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places ~~[to which]~~ where such a voter may ~~[apply to]~~ vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

4. In a county whose population is less than 100,000, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) May designate one or more polling places in the county as the polling place ~~[to which]~~ where such a voter may ~~[apply to]~~ vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places ~~[to which]~~ where such a voter may ~~[apply to]~~ vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

5. Polling places designated pursuant to subsection 3 or 4 may include, without limitation, polling places located as closely as practicable to the mailing precincts.

Sec. 5. NRS 293.345 is hereby amended to read as follows:

293.345 ~~[The]~~

1. Before 5 p.m. on the last business day preceding the first day of the period for early voting for any primary election or general election, the county clerk shall ~~[mail]~~ *cause to be mailed* to each registered voter in each mailing precinct and in each absent ballot mailing precinct ~~[, before 5 p.m. on the second Thursday before the primary election and before 5 p.m. on the fourth Tuesday in October of any year in which a general election is to be held,]~~ an official mailing ballot to be voted by him at the election ~~[.]~~ *, and accompanying supplies, as specified in NRS 293.350.*

2. If the county clerk has designated, pursuant to subsection 3 or 4 of NRS 293.343, one or more polling places ~~[to which]~~ where a voter may ~~[apply to]~~ vote in person, the official ballot and the sample ballot must include a notice in bold type informing the voter of the location of the designated polling place or polling places on election day and the polling places during the period for early voting ~~[to which]~~ where the voter may ~~[apply to]~~ vote in person pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353.

Sec. 6. NRS 293.353 is hereby amended to read as follows:

293.353 ~~[Upon]~~

1. Except as otherwise provided in subsection 2 or 3, upon receipt of a mailing ballot from the county clerk, the registered voter must ~~[:~~

~~1. Except as otherwise provided in subsection 2:~~

~~(a) Immediately after opening the envelope,]~~ *, in accordance with the instructions,* mark and fold the ballot ~~[;~~

~~(b) Place the ballot]~~ *, if it is a paper ballot, or punch it and leave it unfolded, if the ballot is voted by punching a card, deposit and seal the ballot* in the return envelope ~~[;~~

~~(c) Affix]~~ *, affix* his signature on the back of the envelope ~~[; and~~

~~(d) Mail or deliver]~~ *and mail* the envelope to the county clerk.

2. ~~[In those counties using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(a) Immediately after opening the envelope, punch the card;~~

~~(b) Place the unfolded card in the return envelope;~~

~~(c) Affix his signature on the back of the envelope; and~~

~~(d) Mail or deliver the envelope to the county clerk.]~~ *Except as otherwise provided in subsection 3, if a registered voter who has received a mailing ballot applies to vote in person at:*

(a) The office of the county clerk, he must mark or punch the ballot, place and seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.

(b) One of the polling places on election day or a polling place for early voting in the county designated pursuant to subsection 3 or 4 of NRS 293.343, he must surrender the mailing ballot and provide satisfactory identification before being issued a ballot to vote at the polling place. A person who receives a surrendered mailing ballot shall mark it "Cancelled."

3. If a registered voter who has received a mailing ballot ~~[applies]~~ wishes to vote in person at the office of the county clerk or at one of the polling places on election day or a polling place for early voting in the county designated pursuant to subsection 3 or 4 of NRS 293.343, and the voter does not have the mailing ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

(a) Provides satisfactory identification;

(b) Is a registered voter who is otherwise entitled to vote; and

(c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. It is unlawful for any person to return a mailing ballot other than the registered voter to whom the ballot was sent or, at the request of the voter, a member of the family of that voter. A person who returns a mailing ballot and who is a member of the family of the voter who received the mailing ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that he is a member of the family of the voter who received the mailing ballot and that the voter requested that he return the mailing ballot.

A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 7. NRS 293.355 is hereby amended to read as follows:

293.355 *1.* Upon receipt of the return envelope from ~~[the]~~ *a* registered voter ~~[,]~~ *of a mailing precinct or absent ballot mailing precinct, whether through the mail or in person at the office of the county clerk pursuant to paragraph (a) of subsection 2 of NRS 293.353,* the county clerk shall follow the same procedure as in the case of absent ballots.

2. Ballots voted in person at a polling place pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, or at the office of the county clerk pursuant to subsection 3 of NRS 293.353, by registered voters

of a mailing precinct or absent ballot mailing precinct must be processed and reported by the appointed election board or county clerk in the same manner as required by law for absent ballots voted in person pursuant to NRS 293.330.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 373.

Bill read second time.

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

Amendment No. 805.

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

"AN ACT relating to general improvement districts; ~~[authorizing the board of county commissioners in certain smaller counties to serve ex officio as the board of trustees of certain general improvement districts authorized to furnish streets and alleys; providing that such a district may overlap another general improvement district;]~~ *revising the provisions governing the circumstances under which a board of county commissioners may serve ex officio as the board of trustees of a general improvement district;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to serve ex officio as the board of trustees of a general improvement district which is organized on or after July 1, 2007, and authorized to furnish streets and alleys. This bill also provides that the territory of such a district may overlap the territory of another general improvement district. *This bill also authorizes the board of county commissioners in any county to serve ex officio as the board of trustees of a general improvement district which is organized on or after July 1, 2007, and is authorized to exercise any of the basic powers that a district may exercise under existing law.* (NRS 318.0953)

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

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

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

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

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

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

3. In every county whose population is less than 100,000, the board of county commissioners may be ~~[,]~~ ex officio ~~[,]~~ the board of trustees of ~~[each]~~ *:*

(a) Each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing emergency medical services as provided in NRS 318.1185, which district may overlap the

territory of any district authorized to exercise any one or more other basic powers designated in this chapter.

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

4. *The board of county commissioners of any county may be, at its option, ex officio the board of trustees of any district organized on or after July 1, 2007, and authorized to exercise one or more of the basic powers designated in this chapter.*

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

(a) Filed in his office;

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

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

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 386.

Bill read second time.

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

Amendment No. 815.

"SUMMARY—Requires the Nevada Interscholastic Activities Association to adopt regulations governing spirit squads. (BDR 34-1108)"

"AN ACT relating to interscholastic events; requiring the Nevada Interscholastic Activities Association to adopt regulations governing spirit squads; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Nevada Interscholastic Activities Association to adopt regulations that are necessary to control, supervise and regulate all

interscholastic events at public schools, charter schools, private schools and parochial schools in Nevada. (NRS 386.420-386.470) Pursuant to that authority, the Association has adopted regulations governing the activities of cheerleaders and other members of a spirit squad at those schools. (NAC 386.754-386.7548)

Section 1 of this bill requires the Association to adopt regulations setting forth the standards of safety for each event, competition or other activity engaged in by a spirit squad and the qualifications required for a person to become a coach of a spirit squad. *Section 5 of this bill requires each spirit squad and each person who is a coach of a spirit squad to comply with those regulations on or before July 1, 2008.*

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

Section 1. NRS 386.430 is hereby amended to read as follows:

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

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

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

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

3. ~~[The regulations adopted pursuant to subsection 2 must:~~

~~(a) Substantially comply with the spirit rules of the National Federation of State High School Associations, or its successor organization, and the qualifications for coaching of the American Association of Cheerleading Coaches and Administrators, or its successor organization; and~~

~~(b) Provide for the regulation of the activities of spirit squads as an athletic activity.~~

~~4.~~] If the Nevada Interscholastic Activities Association intends to adopt, repeal or amend a policy, rule or regulation concerning or affecting homeschooled children, the Association shall consult with the Northern Nevada Homeschool Advisory Council and the Southern Nevada Homeschool Advisory Council, or their successor organizations, to provide those Councils with a reasonable opportunity to submit data, opinions or arguments, orally or in writing, concerning the proposal or change. The Association shall consider all written and oral submissions respecting the proposal or change before taking final action.

~~[5.]~~ 4. As used in this section, "spirit squad" means any team or other group of persons that is formed for the purpose of:

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

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

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. 1. Each spirit squad of a school that is a member of the Nevada Interscholastic Activities Association shall, on or before July 1, 2008, comply with the regulations adopted by the Association pursuant to NRS 386.430, as amended by section 1 of this act.

2. Each person who is a coach of a spirit squad shall, on or before July 1, 2008, comply with the regulations adopted by the Nevada Interscholastic Activities Association pursuant to NRS 386.430, as amended by section 1 of this act.

~~[Sec. 5.]~~ *Sec. 6.* This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 410.

Bill read second time.

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

Amendment No. 834.

"SUMMARY—Makes certain changes relating to the immunization of children. (BDR 40-877)"

"AN ACT relating to public health; requiring the Department of Health and Human Services to establish an immunization information system; requiring the State Board of Health to adopt regulations governing the immunization information system to collect certain information concerning the immunization of children in this State; requiring the Department to study the feasibility of allowing private entities to purchase immunizations through the Department; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the immunization of children in public schools, private schools and child care facilities in certain circumstances. (NRS 392.435-392.448, 394.192-394.199, 432A.230-432A.270) Section 1 of this bill requires the Department of Health and Human Services to establish an immunization information system to be administered by the State Board

of Health to collect certain statistical information concerning the immunization of children in this State. Section 1 *also* requires the State Board of Health to establish certain forms to be used to report information and inform the parent or guardian of a child about the system. Section 1 also requires a person who administers an immunization to a child to report certain information concerning the immunization of any child on or after July 1, 2009, to the Department for inclusion in the immunization information system unless the parent or guardian of the child declines inclusion of information concerning his child in the system.

Section ~~[2]~~ 3 of this bill requires the Department to study the feasibility of offering group purchasing plans to allow private entities to purchase immunizations through the Department at the lowest negotiated price. The Department is required to report the results of its study to the Legislative Committee on Health Care.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall establish an immunization information system to collect information concerning the immunization of children in this State. The immunization information system must be administered by the State Board of Health.

2. Except as otherwise provided in subsection ~~[3,]~~ 4, a person who administers any immunization to a child which is recommended and approved by the United States Public Health Service Advisory Committee on Immunization Practices, or its successor organization, on or after July 1, 2009, shall report information concerning the child and the immunization provided to the child to the Department for inclusion in the immunization information system. The information reported must include, without limitation:

(a) The immunization provided to the child;

(b) The name of the child;

(c) Demographic information concerning the child, including, without limitation, the age, gender and race of the child; and

(d) Any other information required by regulation of the State Board of Health ~~[.]~~ , taking into consideration applicable requirements for information relating to the immunization of children of:

(1) The Centers for Disease Control and Prevention of the United States Department of Health and Human Services; and

(2) Any other governmental entity.

3. A person who reports information pursuant to subsection 2 may also report information concerning the history of the immunizations of the child if known to the Department for inclusion in the immunization information system.

4. The State Board of Health shall establish the form for reporting information to the Department for inclusion in the immunization information system and the form which the person administering the immunization must provide to the parent or guardian of the child receiving the immunization. The form provided to the parent or guardian must inform the parent or guardian about the immunization information system and must allow the parent or guardian to decline inclusion of the information concerning his child in the system.

5. The information in the immunization information system may only be disclosed to any person who administers immunizations to a child to determine the immunization status of the child and to the persons or governmental entities authorized pursuant to the regulations adopted by the State Board of Health.

6. The State Board of Health shall adopt regulations to carry out the provisions of this section.

Sec. 2. The Department of Health and Human Services shall establish incentives to encourage persons who administer immunizations to report as much information as is available to them for inclusion in the immunization information system.

Sec. 3. 1. The Department of Health and Human Services shall study the feasibility of offering group purchasing plans to private entities that administer immunizations to allow such private entities to purchase immunizations through the Department at the lowest negotiated rate.

2. The Department shall report to the Legislative Committee on Health Care the results of its study and any progress it has made toward establishing group purchasing plans for immunizations on or before January 30, 2008, and at such other times as requested by the Legislative Committee on Health Care.

Sec. 4. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 418.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 757.

"SUMMARY—Makes various changes relating to unarmed combat. (BDR 41-889)"

"AN ACT relating to unarmed combat; removing references to wrestling in various statutes relating to unarmed combat; *eliminating the Medical Advisory Board;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-3 of this bill remove references to wrestling that are contained in various statutes relating to unarmed combat.

Section 4.5 of this bill eliminates the Medical Advisory Board, which currently recommends standards for the physical and mental examination of contestants, recommends physicians for licensing, advises the Nevada Athletic Commission as to the physical or mental fitness of a contestant and submits reports containing recommendations for revisions in the law to protect the health of contestants. (NRS 467.018)

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

Section 1. NRS 467.0107 is hereby amended to read as follows:

467.0107 "Unarmed combat" means boxing ~~[, wrestling]~~ or any form of competition in which a blow is usually struck which may reasonably be expected to inflict injury.

Sec. 2. NRS 467.108 is hereby amended to read as follows:

467.108 1. Except as otherwise provided in subsection 2, in addition to the payment of any other fees or taxes required by this chapter, a promoter shall pay to the Commission a fee of $1.00 for each ticket sold for admission to a live professional ~~[boxing or wrestling]~~ contest ~~[, match or exhibition]~~ *of unarmed combat* which is held in this State.

2. In lieu of the fee imposed pursuant to subsection 1, the Executive Director of the Commission may require a promoter to pay to the Commission a fee of $0.50 for each ticket sold for admission to a live professional ~~[boxing or wrestling]~~ contest ~~[, match or exhibition]~~ *of unarmed combat* which is held in this State if the gross receipts from admission fees to the contest ~~[, match or exhibition]~~ *of unarmed combat* are less than $500,000.

3. The money collected pursuant to subsections 1 and 2 must be used by the Commission to award grants to organizations which promote amateur ~~[boxing]~~ contests or exhibitions *of unarmed combat* in this State.

4. The Commission shall adopt by regulation ~~[the]~~ *:*

(a) The manner in which ~~[:~~

~~(a) The]~~ *the* fees required by subsections 1 and 2 must be paid.

(b) ~~[Applications]~~ *The manner in which applications* for grants may be submitted to the Commission . ~~[and the]~~

(c) The standards to be used to award grants to organizations which promote amateur ~~[boxing]~~ contests or exhibitions *of unarmed combat* in this State.

Sec. 3. NRS 467.135 is hereby amended to read as follows:

467.135 1. The Commission, its Executive Director or any other employee authorized by the Commission may order the promoter to withhold any part of a purse or other money belonging or payable to any contestant, manager or second if, in the judgment of the Commission, Executive Director or other employee:

(a) The contestant is not competing honestly or to the best of his skill and ability or the contestant otherwise violates any regulations adopted by the

Commission or any of the provisions of this chapter, including, but not limited to, the provisions of subsection 1 of NRS 467.110; or

(b) The manager or seconds violate any regulations adopted by the Commission or any of the provisions of this chapter, including, but not limited to, the provisions of subsection 1 of NRS 467.110.

2. ~~[This section does not apply to any contestant in a wrestling exhibition who appears not to be competing honestly or to the best of his skill and ability.~~

~~3.]~~ Upon the withholding of any part of a purse or other money pursuant to this section, the Commission shall immediately schedule a hearing on the matter, provide adequate notice to all interested parties and dispose of the matter as promptly as possible.

~~[4.]~~ *3.* If it is determined that a contestant, manager or second is not entitled to any part of his share of the purse or other money, the promoter shall pay the money over to the Commission. Subject to the provisions of subsection ~~[5,]~~ *4,* the money must be deposited with the State Treasurer for credit to the State General Fund.

~~[5.]~~ *4.* Money turned over to the Commission pending final action in any matter must be credited to the Athletic Commission's Agency Account and must remain in that Account until the Commission orders its disposition in accordance with the final action taken.

Sec. 4. (Deleted by amendment.)

Sec. 4.5. *NRS 467.0101, 467.012, 467.015 and 467.018 are hereby repealed.*

Sec. 5. This act becomes effective on July 1, 2007.

LEADLINES OF REPEALED SECTIONS

467.0101 "Board" defined.

467.012 Creation; Chairman; terms.

467.015 Qualifications of members.

467.018 Duties.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 433.

Bill read second time.

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

Amendment No. 806.

"SUMMARY—Further limits the authority of public bodies to close meetings. (BDR 19-892)"

"AN ACT relating to meetings of public bodies; providing additional limitations on the authority of public bodies to close meetings; limiting the

authority of the Nevada Tax Commission to close certain hearings; *providing a penalty;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that meetings of public bodies be open to the public. (Chapter 241 of NRS) Exceptions to the general rule are allowed by specific statute. (NRS 241.020) Section 1 of this bill provides that if an exception is allowed by specific statute, the meeting may be closed only to the extent specified in the statute and requires that all other portions of the meeting be open and public. Sections 2 and 3 of this bill limit and clarify a specific exception for the Nevada Tax Commission that allows closed hearings on appeals by taxpayers under certain circumstances. (NRS 360.247, 372.750)

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

Section 1. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. *A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute.* Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate physically handicapped persons desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➥ As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

➥ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

Sec. 2. NRS 360.247 is hereby amended to read as follows:

360.247 *1.* Except as otherwise provided in this section, any appeal to the Nevada Tax Commission which is taken by a taxpayer concerning his liability for tax must be heard during a session of the Commission which is open to the public. ~~[~~A~~]~~ *Upon request by the taxpayer, a* hearing on such an appeal may be closed to the public ~~[if the taxpayer requests that it be closed.]~~ *to receive proprietary or confidential information.*

2. As soon as practicable after closing a hearing pursuant to subsection 1, the Nevada Tax Commission shall ~~[make a determination as to]~~ determine whether the ~~[material]~~ information to be presented in the closed hearing is ~~[properly classified as]~~ proprietary or confidential information. If the Commission, in its discretion, determines that the information is ~~[determined]~~ not ~~[to be]~~ proprietary or confidential ~~[,]~~ information, the Commission shall immediately open the hearing to the public. If the Commission, in its discretion, determines that the information is ~~[determined to be properly classified as]~~ proprietary or confidential information ~~[,]~~ :

(a) The hearing must remain closed to the public and the Commission shall ~~[proceed to gather]~~ receive the information in a manner that ensures that ~~[each member]~~ the members of the Commission ~~[has]~~ have a reasonable and adequate opportunity to review the information and make any inquiries ~~[the]~~ that any member believes to be necessary and appropriate.

~~[3. Upon completion of the information gathering portion of the hearing]~~

(b) After the receipt of and opportunity to review the proprietary or confidential information pursuant to ~~[subsection 2,]~~ paragraph (a), the ~~[Nevada Tax]~~ Commission shall ~~[open]~~ reopen the hearing to the public and ~~[begin deliberating in a manner that does not make public any]~~ proceed to deliberate toward a decision regarding issues in the appeal that are not proprietary or confidential . ~~[information.~~

~~4.]~~ (c) After a hearing has been reopened pursuant to paragraph (b), the Commission shall, upon the request of any member of the Commission who believes that he cannot conduct meaningful deliberations with the other members of the Commission on the appeal because the appeal concerns proprietary or confidential information, close the hearing for further deliberations. The definitive vote on the appeal must be taken during a hearing of the Commission that is open to the public.

3. The Nevada Tax Commission shall adopt regulations which establish procedures:

(a) By which a taxpayer may request a closed hearing ~~[,]~~ pursuant to this section.

(b) By which the Commission may determine ~~[during a closed hearing]~~ whether information is ~~[appropriately classified as]~~ proprietary or confidential information ~~[; and~~

~~(c) For the manner in which the Commission may deliberate and vote on an appeal in an open meeting without making any proprietary or confidential information public.~~

~~5. If the Nevada Tax Commission closes a hearing to receive information, all deliberations must be conducted and all decisions with respect to the appeal must be made in an open and public hearing. The Commission must, at a minimum, provide at the public hearing sufficient information for the public to understand the basis and rationale for the decision of the Commission, including, without limitation:~~

~~(a) The name of the taxpayer;~~

~~(b) The amount of the taxpayer's liability, including interest and penalties;~~

~~(c) The type of tax at issue; and~~

~~(d) The general nature of the evidence relied upon by the Commission in reaching its decision.~~

~~6.]~~ during a closed hearing.

4. Not later than 45 days after the Nevada Tax Commission deliberates in a closed hearing and makes a definitive decision on an appeal in a hearing that is open to the public pursuant to this section, the Commission shall prepare an abstract that explains the reasons for the decision, which must be made available to the public upon request. Such an abstract:

(a) Must include, without limitation:

(1) The name of the taxpayer;

(2) The amount of the taxpayer's liability, including interest and penalties;

(3) The type of tax at issue; and

(4) The general nature of the evidence relied upon by the Commission in reaching its decision.

(b) Must not contain any proprietary or confidential information relating to the taxpayer.

5. A member of the Nevada Tax Commission or an officer, agent or employee of the Department is not subject to any criminal penalty or civil liability for the ~~[inadvertent]~~ use or publication of proprietary or confidential information ~~[disclosed]~~ received pursuant to the procedure set forth in subsection 2, regardless of whether the information was received during a closed hearing . ~~[conducted pursuant to this section.~~

~~7.]~~ 6. The Nevada Tax Commission shall take such actions as it deems necessary to protect the confidentiality of information provided by a taxpayer that the Commission has determined to be proprietary or confidential information, including, without limitation:

(a) Issuing such protective orders as it deems necessary;

(b) Restricting access to any hearing closed to the public and to the records and transcripts of any such hearing, without the prior approval of the Commission; and

(c) Prohibiting any intervener allowed to attend such a hearing or allowed access to the records and transcripts of such a hearing from disclosing such information without prior authorization from the Commission.

7. A person who violates a protective order issued by the Nevada Tax Commission pursuant to subsection 6 is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order.

8. As used in this section ~~[, "proprietary]~~ :

(a) "Confidential economic information":

(1) Means any information which is not available to the public generally, which confers an economic benefit on the holder of the information as a result of its unavailability and which is the subject of reasonable efforts by the taxpayer to maintain its secrecy.

(2) Includes, without limitation, information relating to the amount or source of any income, profits, losses or expenditures of the taxpayer, such as data relating to costs, prices or customers.

(b) "Proprietary or confidential information":

~~[(a)]~~ (1) Means:

~~[(1)]~~ (I) Any trade secret , ~~[or]~~ confidential economic information or business information that is submitted to the Nevada Tax Commission by the taxpayer and ~~[designated as]~~ is determined to be proprietary or confidential information by the Commission; or

~~[(2)]~~ (II) Any information ~~[declared by]~~ that a specific statute declares to be confidential or ~~[that]~~ prohibits the Commission ~~[is prohibited]~~ from making public . ~~[by specific statute.~~

~~(b)~~ (2) *Does not include any information that has been published for public distribution or is otherwise* ~~[generally]~~ *available to the public generally or in the public domain.*

~~[— As used in this subsection, "confidential economic information" means any information that is not generally known to the public, that confers an economic benefit to the holder specifically because it is not known and that is the subject of reasonable efforts to maintain its secrecy, including, without limitation, information relating to the amount or source of any income, profits, losses or expenditures of the taxpayer, including data relating to costs, prices or the customers of the taxpayer.]~~

Sec. 3. NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section ~~[,]~~ *or NRS 360.247,* it is a misdemeanor for any member of the Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. The information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the

items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information *that the Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247* may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against him.

Sec. 4. *The provisions of NRS 360.247, as amended by section 2 of this act, do not apply to any appeal to the Nevada Tax Commission taken by a taxpayer concerning his liability for tax that has been heard by the Commission before July 1, 2007.*

Sec. 5. This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 443.

Bill read second time.

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

Amendment No. 816.

"SUMMARY—Revises provisions relating to communicable diseases. (BDR 40-1057)"

"AN ACT relating to communicable diseases; making various changes to provisions concerning the human immunodeficiency virus; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill expresses the ~~[sense]~~ *intent* of the Legislature regarding the manner in which governmental entities and persons and entities providing services of health care should collaborate to ensure that testing for the human immunodeficiency virus and related counseling is carried out in a culturally and linguistically appropriate manner, and with due regard for the sensitivity and private nature of such information.

Section 4 of this bill requires certain providers of testing for the human immunodeficiency virus to ensure that each person who tests positive for the human immunodeficiency virus receives a counseling session. The counseling session must include information on: (1) the test result;

(2) follow-up testing; (3) medical treatment; (4) methods for preventing transmission of the human immunodeficiency virus; (5) the confidentiality of the test result; and (6) appropriate testing for sexual partners of those who test positive for the human immunodeficiency virus. Section 4 also requires ~~[each test provider]~~ *certain providers of testing* to offer referrals for certain health care services to those who test positive for the human immunodeficiency virus.

Existing law makes discrimination against persons with certain disabilities an unlawful employment practice. (NRS 613.310-613.435) Section ~~[5]~~ *6* of this bill ~~[prohibits employment discrimination against a person who has tested positive for]~~ *amends the definition of "disability" to specifically include* the human immunodeficiency virus. ~~[if the fact that the person tested positive would not prevent the proper performance of the work for which he otherwise would have been hired.]~~

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

Section 1. Chapter 441A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in sections 2, 3 and 4 of this act, "provider of health care" means a physician, nurse or physician assistant licensed in accordance with state law.*

Sec. 3. *It is the intent of the Legislature that:*

1. The State Board of Health, the Department of Health and Human Services, and all district, county and city health departments, boards of health and health officers, ~~[medical laboratories,]~~ medical facilities and providers of health care work together in a collaborative manner to ensure that testing for the human immunodeficiency virus and related counseling services are offered in a culturally and linguistically appropriate manner.

2. Information pertaining to testing for the human immunodeficiency virus be reported and maintained in accordance with existing state and federal privacy laws.

3. Information pertaining to cases of the human immunodeficiency virus not be used for any purpose other than public health practices, including, without limitation, surveillance and epidemiology.

Sec. 4. *1. Counties, providers of health care ~~[, medical laboratories]~~ and medical facilities that provide testing for the human immunodeficiency virus shall provide, or ensure the provision of, to each person who tests positive for the human immunodeficiency virus, a counseling session that is appropriate and acceptable under current medical and public health practices, as recommended by the Board.*

2. Counseling required pursuant to this section must address, without limitation:

(a) The meaning of the positive result of the test;

(b) Any follow-up testing for the person;

(c) Methods for preventing the transmission of the human immunodeficiency virus;

(d) Medical treatment available for the person;

(e) The confidentiality of the result of the test; and

(f) Recommended testing for the human immunodeficiency virus for sexual partners of the person.

3. Counties, providers of health care ~~*[, medical laboratories]*~~ *and medical facilities that provide testing for the human immunodeficiency virus* ~~*[must]*~~ *shall offer to each person who tests positive for the human immunodeficiency virus:*

(a) Appropriate referrals for future services, including, without limitation, medical care, mental health care and addiction services; or

(b) If unable to provide referrals pursuant to paragraph (a), referral to the local health authority for a subsequent referral to providers within the community for future services, including, without limitation, medical care, mental health care and addiction services.

4. The Director of the Department of Health and Human Services may adopt regulations to carry out the provisions of this section.

Sec. 5. ~~[Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*It is an unlawful employment practice:*~~

~~*1. For an employer to fail or refuse to hire and employ employees;*~~

~~*2. For an employment agency to fail to classify or refer any person for employment;*~~

~~*3. For a labor organization to fail to classify its membership or to fail to classify or refer any person for employment; or*~~

~~*4. For an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program,*~~

~~*➡ because the person has tested positive for the human immunodeficiency virus, if the fact that the person tested positive for the human immunodeficiency virus would not prevent proper performance of the work for which the person would otherwise have been hired, classified, referred or prepared under a training or retraining program.]*~~ *(Deleted by amendment.)*

Sec. 6. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, ~~*[and section 5 of this act,]*~~ unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person ~~[.]~~ *, including, without limitation, the human immunodeficiency virus;*

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

5. "Person" includes the State of Nevada and any of its political subdivisions.

6. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Titus moved that Assembly Bill No. 386 be taken from the General File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 485.

Bill read second time.

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

Amendment No. 833.

"SUMMARY—Revises provisions relating to the attendance and truancy of pupils. (BDR 34-418)"

"AN ACT relating to education; revising provisions relating to reports of accountability to include information relating to pupils who drop out of school in grade 8; revising provisions governing the attendance and truancy of pupils; authorizing a juvenile court to order a parent or guardian of a child to pay a fine under certain circumstances if the child is a habitual truant; authorizing a juvenile court to waive certain fines if the parent or guardian is ordered to pay fines in a court of competent jurisdiction; requiring the

Legislative Committee on Education to study issues relating to truancy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 2 of this bill require a report of pupils who drop out of school in grade 8 to be included in the reports of accountability prepared by the State Board of Education and the boards of trustees of school districts. (NRS 385.3469, 385.347)

Section 3 of this bill requires the board of trustees of a school district located in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to establish a school attendance council. A board of trustees of a school district located in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) is authorized to establish a school attendance council. A school attendance council is required to implement a program to reduce the truancy of pupils and to monitor incidents of truancy of pupils within the district.

Existing law requires an advisory board to review school attendance created pursuant to NRS 392.126 to establish programs to reduce the truancy of pupils in the school district. (NRS 392.128) Section 5 of this bill requires those programs to include the coordination of community services that provide assistance for pupils who are truant from school.

Section 6 of this bill requires the board of trustees of each school district to establish procedures to monitor the attendance and truancy of pupils within the school district.

Existing law makes it unlawful for a person to induce or attempt to induce a child to be unlawfully absent from school. (NRS 392.220) Section 7 of this bill makes the inducement or attempt unlawful if the person knowingly induces or attempts to induce the child to be unlawfully absent from school. Section 7 of this bill also clarifies that a parent or guardian may be in violation of this law if the parent knowingly induces or attempts to induce a child to be unlawfully absent from school.

Under existing law a child who is adjudicated to be in need of supervision because the child is a habitual truant may be ordered to pay a fine. (NRS 62A.430) Section 9 of this bill authorizes the juvenile court to order the parent or guardian of the child to pay a fine if the parent or guardian knowingly induced the child to be a habitual truant. Section 9 also authorizes the juvenile court to waive a fine if a parent or guardian is ordered, by a court of competent jurisdiction, to pay a fine arising out of the same circumstances.

Section 11 of this bill requires the Legislative Committee on Education to ~~[form a subcommittee to]~~ study the issue of truancy and report its findings to the ~~[Committee]~~ *Legislature* on or before ~~[August]~~ *February* 1, ~~[2008.]~~ *2009.*

WHEREAS, The graduation rate reported each year by the Department of Education is based on a general count of pupils who entered grade 9 and a count of pupils who receive a diploma or drop out 4 years later; and

WHEREAS, The National Governors Association Task Force on State High School Graduation Data is urging states to adopt a new method for

calculating the graduation rate which tracks an individual pupil through his educational career to determine whether the pupil graduates; and

WHEREAS, Nevada has committed to adopting this new method for calculating the graduation rate; and

WHEREAS, The members of the 74th Session of the Nevada Legislature hereby urge the Department of Education to begin using the method for calculating the graduation rate promoted by the National Governors Association as soon as practicable; now, therefore,

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following subgroups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each subgroup identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the subgroups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to

NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in *grade 8 and a separate reporting of the annual rate of pupils who drop out of school in* grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole . ~~[, excluding]~~ *The reporting for pupils in grades 9 to 12, inclusive, excludes* pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma.

(2) An adjusted diploma.

(3) A certificate of attendance.

(bb) The number and percentage of pupils who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

2. A separate reporting for a subgroup of pupils must not be made pursuant to this section if the number of pupils in that subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a subgroup for that subgroup to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed *educational* personnel ~~[in education]~~ in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall:

(a) Report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school.

(b) For the information that is reported in an aggregated format, include the data that is applicable to the charter schools sponsored by the school district but not the charter schools that are sponsored by the State Board.

(c) Denote separately in the report those charter schools that are located within the school district and sponsored by the State Board.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in

the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations;

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school;

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following subgroups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board;

(4) A comparison of the achievement of pupils in each subgroup identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board;

(5) The percentage of pupils who were not tested;

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the subgroups identified in subparagraph (3);

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available;

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison; and

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a subgroup of pupils must not be made pursuant to this paragraph if the number of pupils in that subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that

must be in a subgroup for that subgroup to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term

substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in *grade 8 and a separate reporting of the annual rate of pupils who drop out of school in* grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole . ~~[, excluding]~~ *The reporting for pupils in grades 9 to 12, inclusive, excludes* pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and

percentage of pupils who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

➥ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee; and

(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district located:

(a) In a county whose population is 100,000 or more, shall establish not less than one school attendance council within the school district.

(b) In a county whose population is less than 100,000, may establish a school attendance council within the school district.

2. A school attendance council established by the board of trustees must consist of members whose professional responsibilities relate to the prevention of truancy and the enforcement of laws relating to truancy, which may include, without limitation, a person in charge of monitoring attendance within the school district or a school, a representative from an agency which provides child welfare services, a representative from a law enforcement agency and a representative of the district attorney.

3. A school attendance council shall:

(a) Assist in the implementation of a program to reduce the truancy of pupils adopted by the advisory board to review school attendance pursuant to NRS 392.128.

(b) Monitor each incident involving the truancy of a pupil within the school district and document the efforts made by each school and the school district to assist the pupil in attending school.

(c) Monitor excessive absences of pupils within the school district and document the efforts made by each school and the school district to assist pupils in attending school.

(d) Prepare an annual report which includes a compilation of the disposition of incidences involving the truancy of pupils during the immediately preceding school year. On or before August 1 of each year the report must be submitted to the Department and the Legislative Committee on Education. The annual report must not disclose the identity of an individual pupil.

(e) Receive and retain a report from a family resource center or other provider of community services that assists pupils who are truant. As used in this paragraph, "family resource center" has the meaning ascribed to it in NRS 430A.040.

Sec. 4. NRS 392.127 is hereby amended to read as follows:

392.127 The board of trustees of each school district shall provide administrative support to ~~[each advisory]~~ *:*

1. Each advisory board to review school attendance created in its county pursuant to NRS 392.126.

2. If applicable, each school attendance council established pursuant to section 3 of this act.

Sec. 5. NRS 392.128 is hereby amended to read as follows:

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district pursuant to subsection 7 of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district ~~[;]~~ *, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;*

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chairman of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the

chairman of an advisory board divides the advisory board into subcommittees, the chairman shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. *An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.*

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

Sec. 6. NRS 392.150 is hereby amended to read as follows:

392.150 *1.* The board of trustees of a school district may ~~[:~~

~~1. Appoint]~~ *appoint* an attendance officer ~~[,]~~ *for the school district,* who need not be a licensed employee of the school district, except that in any school district where a system of classified employment is in effect, attendance officers must be classified employees of the school district. *If the board of trustees appoints an attendance officer for the school district, the board of trustees may:*

~~[2.]~~ *(a)* Fix his compensation ~~[.]~~ *;*

~~[3.]~~ *(b)* Prescribe his duties ~~[.]~~ *; and*

~~[4.]~~ *(c)* Adopt regulations not inconsistent with law for the performance of his duties.

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

(a) Establish procedures to monitor the attendance and truancy of pupils, including, without limitation, a standard method for reporting the truancy of pupils and a standard method for reporting excessive absences of pupils throughout the school district;

(b) Coordinate efforts to refer pupils who are truant to appropriate providers of community services; and

(c) Determine, based on the attendance and truancy of pupils at each school within the school district, whether to employ an attendance clerk for a particular school or group of schools whose primary responsibility is to monitor the attendance and truancy of pupils.

Sec. 7. NRS 392.220 is hereby amended to read as follows:

392.220 1. Any person *, including, without limitation, a parent or legal guardian of a child,* who *knowingly* induces or attempts to induce any child to be absent from school unlawfully, *including, without limitation, requiring the child to provide care for a sibling while school is in session,* or who knowingly employs or harbors, while school is in session, any child absent unlawfully from school, is guilty of a misdemeanor.

2. The attendance officer *for the school district, an attendance clerk* or any other school officer is empowered to visit any place or establishment where minor children are employed to ascertain whether the provisions of this title of NRS are complied with fully, and may demand from all employers of such children a list of children employed, with their names and ages.

Sec. 8. NRS 62E.270 is hereby amended to read as follows:

62E.270 1. If the juvenile court imposes a fine against:

(a) A delinquent child pursuant to NRS 62E.730;

(b) A child who has committed a minor traffic offense, except an offense related to metered parking, pursuant to NRS 62E.700; or

(c) A child in need of supervision *, or the parent or guardian of the child,* because the child is a habitual truant pursuant to NRS 62E.430,

➥ the juvenile court shall order the child or the parent or guardian of the child to pay an administrative assessment of $10 in addition to the fine.

2. The juvenile court shall state separately on its docket the amount of money that the juvenile court collects for the administrative assessment.

3. If the child is found not to have committed the alleged act or the charges are dropped, the juvenile court shall return to the child or the parent or guardian of the child any money deposited with the juvenile court for the administrative assessment.

4. On or before the fifth day of each month for the preceding month, the clerk of the court shall pay to the county treasurer the money the juvenile court collects for administrative assessments.

5. On or before the 15th day of each month, the county treasurer shall deposit the money in the county general fund for credit to a special account for the use of the county's juvenile court or for services to delinquent children.

Sec. 9. NRS 62E.430 is hereby amended to read as follows:

62E.430 1. If a child is adjudicated to be in need of supervision because the child is a habitual truant, the juvenile court shall:

(a) The first time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order ~~[the child to:~~

~~(I) Pay]~~ *:*

(I) The child to pay a fine of not more than $100 and the administrative assessment required by NRS 62E.270 ~~[;]~~ *or if the parent or guardian of the child knowingly induced the child to be a habitual truant,*

order the parent or guardian to pay the fine and the administrative assessment; or

(II) ~~[Perform]~~ *The child to perform* not less than 8 hours but not more than 16 hours of community service; and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 30 days but not more than 6 months. If the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 30 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

(b) The second or any subsequent time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order ~~[the child to:~~

~~(I) Pay]~~ *:*

(I) The child to pay a fine of not more than $200 and the administrative assessment required by NRS 62E.270 ~~[;]~~ *or if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine and the administrative assessment;*

(II) ~~[Perform]~~ *The child to perform* not more than 10 hours of community service; or

(III) ~~[Comply]~~ *Compliance* with the requirements set forth in both sub-subparagraphs (I) and (II); and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 60 days but not more than 1 year. If the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 60 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

2. The juvenile court may suspend the payment of a fine ordered pursuant to paragraph (a) of subsection 1 if the child attends school for 60 consecutive school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the imposition of the fine, or has a valid excuse acceptable to his teacher or the principal for any absence from school within that period.

3. *The juvenile court may suspend the payment of a fine ordered pursuant to this section if the parent or guardian of a child is ordered to pay a fine by another court of competent jurisdiction in a case relating to or arising out of the same circumstances that caused the juvenile court to adjudicate the child in need of supervision.*

4. The community service ordered pursuant to this section must be performed at the child's school of attendance, if practicable.

Sec. 10. NRS 430A.160 is hereby amended to read as follows:

430A.160 1. Each family resource center shall provide referrals to obtain, if available, the following services:

(a) Education on caring for infants and day care services for infants;

(b) Education on parenting;

(c) Health care services for children, including all required immunizations;

(d) Programs to identify and assist developmentally disabled infants and young children of up to 5 years of age;

(e) Day care for children who are old enough to attend school, both before and after school;

(f) Programs to assist senior citizens;

(g) Programs to supplement formal education, including, without limitation, mentor programs for pupils in elementary and secondary schools, literacy programs, programs that encourage parental involvement in school, programs that teach English as a second language, programs to assist in the naturalization process and other alternative educational programs;

(h) Programs to teach adults and children skills for employment and self-sufficiency;

(i) Services that will assist families with physical and mental health issues, the special needs of children, food and nutritional needs, recreational needs, housing problems, domestic violence and substance abuse;

(j) Programs designed to reduce the rate of pregnancies in unmarried teenage girls;

(k) Programs designed to *assist pupils who are truant from school and to* reduce the rate at which pupils drop out of school;

(l) Transportation services, particularly to assist people in traveling to the social service agencies from which they may be receiving services pursuant to this section;

(m) Classes that teach alternative means of resolving disputes that arise in the family; and

(n) Any other services for which the communities that the family resource center serves have a need.

2. Each family resource center may offer services directly through its own employees and resources or contract with social service agencies to provide services, or may do both.

3. Any family resource center that offers services directly through its own employees and resources shall comply with all applicable state and federal laws and regulations regarding the delivery of the services.

Sec. 11. 1. The ~~[Chairman of the]~~ Legislative Committee on Education shall ~~[appoint a subcommittee of the members of the Committee to]~~ study issues relating to truancy during the 2007-2009 interim.

2. The ~~[subcommittee appointed pursuant to subsection 1 shall:~~

~~(a) Study and evaluate truancy and issues]~~ *study must include, without limitation, a review of:*

(a) Issues relating to pupils who are truant from school, including, without limitation, measures of prevention, intervention and diversion and the imposition of appropriate discipline.

(b) ~~[Examine the]~~ *The* effectiveness of existing programs designed to reduce the number of pupils who are truant from school and identify programs throughout the State or in other states that are effective.

(c) ~~[Develop recommendations]~~ *Recommendations* for a plan to reduce the number of pupils who are truant from school.

3. ~~[On or before August 1, 2008, the subcommittee appointed pursuant to subsection 1 shall submit to the Legislative Committee on Education:~~

~~(a) A report of its findings; and~~

~~(b) Requests for the drafting of not more than five legislative measures which relate to matters within the scope of the study conducted by the subcommittee. Such requests are in addition to the number of requests authorized for the Legislative Committee on Education in paragraph (a) of subsection 3 of NRS 218.2429.~~

~~4. The Legislative Committee on Education shall:~~

~~(a) Approve or deny the requests for the drafting of legislative measures of the subcommittee; and~~

~~(b)]~~ On or before February 1, 2009, *the Legislative Committee on Education shall* submit the report of ~~[the subcommittee]~~ *its findings and any recommendations* to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

Sec. 12. The provisions of section 9 of this act do not apply to a parent or guardian of a child who is adjudicated in need of supervision because he is a habitual truant if all acts of truancy occurred before July 1, 2007.

Sec. 13. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 489.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 825.

"SUMMARY—Revises provisions governing the towing of motor vehicles from public or private property. (BDR 43-345)"

"AN ACT relating to motor vehicles; allowing a civil action to be filed against the owner or person in lawful possession of real property on which public parking is restricted in a certain manner for the improper towing of a vehicle; increasing the time within which a court must hold a hearing relating

to an improper towing; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows an owner of an off-street parking facility to authorize the towing or removing of a vehicle from the facility in certain circumstances. (NRS 487.037) Existing law also allows the owner or person in lawful possession of any real property to have a vehicle that is parked in an unauthorized manner on the property towed if certain signs are posted and certain notices are given. (NRS 487.038) Finally, existing law allows a person whose car has been towed from private property, but not property where public parking is allowed, to bring a civil action against the person who authorized the towing to determine if the towing was lawful. (NRS 487.039)

This bill allows a person who believes his vehicle has been unlawfully towed from real property where public parking is allowed to file a civil action and for process to be served on the owner or person in lawful possession of the real property. This bill also ~~[increases]~~ *decreases* the time within which the court must hold a hearing on the matter of the propriety of the towing from 7 calendar days to ~~[7]~~ *4* working days after the action is filed.

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

Section 1. NRS 487.039 is hereby amended to read as follows:

487.039 1. If a vehicle is towed ~~[from private property upon the request of the owner of the private property, or a person in lawful possession of that property,]~~ *pursuant to NRS 487.037 or 487.038* and the owner of the vehicle believes that the vehicle was unlawfully towed, the owner of the vehicle may file a civil action pursuant to paragraph (b) of subsection 1 of NRS 4.370 in the justice court of the township where the ~~[private]~~ property *from which the vehicle was towed* is located, on a form provided by the court, to determine whether the towing of the vehicle was lawful.

2. An action may be filed pursuant to this section only if the cost of towing and storing the vehicle does not exceed $10,000.

3. Upon the filing of a civil action pursuant to subsection 1, the court shall schedule a date for a hearing. The hearing must be held not later than ~~[7]~~ *4 working* days after the action is filed. The court shall affix the date of the hearing to the form and order a copy served by the sheriff, constable or other process server upon the *owner or* person *in lawful possession of the property* who authorized the towing of the vehicle.

4. The court shall:

(a) If it determines that the vehicle was:

(1) Lawfully towed, order the owner of the vehicle to pay the cost of towing and storing the vehicle and order the person who is storing the vehicle to release the vehicle to the owner upon payment of that cost; or

(2) Unlawfully towed, order the *owner or* person *in lawful possession of the property* who authorized the towing to pay the cost of towing and storing the vehicle and order the person who is storing the vehicle to release the vehicle to the owner immediately; and

(b) Determine the actual cost incurred in towing and storing the vehicle.

5. The operator of any facility or other location where vehicles which are towed ~~[from private property]~~ are stored shall display conspicuously at that facility or location a sign which sets forth the provisions of this section.

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

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 490.

Bill read second time.

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

Amendment No. 817.

"SUMMARY—Revises provisions governing the sealing of records concerning a person's admission to a hospital or mental health facility under certain circumstances. (BDR 39-1376)"

"AN ACT relating to mentally ill persons; requiring a court to seal *certain* records relating to a person admitted to a public or private mental health facility or hospital under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a person who has been admitted to a mental health facility to file a petition to seal court and clinical records relating to his admission and treatment. (NRS 433A.703) If the court finds that the person has recovered or his illness is in substantial remission, the court must seal all court and clinical records relating to the person's admission and treatment. (NRS 433A.709) The effect of the sealing of such records is that the person's admission is deemed never to have occurred and the person may answer any question relating to the admission as if the admission had never occurred. (NRS 433A.711) *Section 2 of this bill repeals these provisions relating to petitioning a court to seal court and clinical records. (NRS 433A.701-433A.711)*

Section 1 of this bill requires a court to seal all court ~~[and clinical]~~ records relating to the admission and treatment of a person who has been admitted to a public or private hospital or mental health facility for the purpose of obtaining mental health treatment, either voluntarily or as the result of a noncriminal proceeding. However, under section 1, a court may order the inspection of these records under certain circumstances if the court holds a hearing and the person who is seeking to inspect the records provides notice

of the hearing to the person who is the subject of the records. A governmental entity may inspect court records sealed pursuant to section 1 without following these procedures if the governmental entity has made a conditional offer of certain employment concerning public safety to the person and that person provides written consent to the inspection of the records. *A court may, upon its own order, inspect records sealed pursuant to section 1 without following these procedures if the records are necessary and relevant for the disposition of a matter pending before the court.* The effect of the sealing of such records is that the person's admission is deemed never to have occurred and the person may answer any question relating to the admission as if the admission had never occurred, except under certain circumstances.

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

Section 1. Chapter 433A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A court shall seal all court ~~[and clinical]~~ records relating to the admission and treatment of any person who was admitted, voluntarily or as the result of a noncriminal proceeding, to a public or private hospital or mental health facility in this State for the purpose of obtaining mental health treatment.

2. Except as otherwise provided in ~~[subsection]~~ subsections 4 ~~[,]~~ and 5, a person or governmental entity that wishes to inspect records that are sealed pursuant to this section must file a petition with the court that sealed the records. Upon the filing of a petition, the court shall fix a time for a hearing of the matter. The petitioner must provide notice of the hearing and a copy of the petition to the person who is the subject of the records. If the person who is the subject of the records wishes to oppose the petition, the person must appear before the court at the hearing. If the person appears before the court at the hearing, the court must provide the person an opportunity to be heard on the matter.

3. After the hearing described in subsection 2, the court may order the inspection of records that are sealed pursuant to this section if:

(a) A law enforcement agency must obtain or maintain information concerning persons who have been admitted to a public or private hospital or mental health facility in this State pursuant to state or federal law;

(b) A prosecuting attorney or an attorney who is representing the person who is the subject of the records in a criminal action requests to inspect the records; or

(c) The person who is the subject of the records petitions the court to permit the inspection of the records by a person named in the petition. ~~[; or~~

~~(d) The person who is the subject of the records is being treated by a physician or licensed psychologist, and the physician or psychologist:~~

~~(1) Determines that it is necessary to obtain a copy of the person's records from the public or private hospital or mental health facility; and~~

~~*(2) Agrees to use the records solely for the medical treatment or medical analysis of the person.]*~~

4. A governmental entity is entitled to inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if:

(a) The governmental entity has made a conditional offer of employment to the person who is the subject of the records;

(b) The position of employment conditionally offered to the person concerns public safety, including, without limitation, employment as a firefighter or peace officer;

(c) The governmental entity is required by law, rule, regulation or policy to obtain the mental health records of each individual conditionally offered the position of employment; and

(d) An authorized representative of the governmental entity presents to the court a written authorization signed by the person who is the subject of the records and notarized by a notary public or judicial officer in which the person who is the subject of the records consents to the inspection of the records.

5. Upon its own order, any court of this State may inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if the records are necessary and relevant for the disposition of a matter pending before the court. The court may allow a party in the matter to inspect the records without following the procedure described in subsection 2 if the court deems such inspection necessary and appropriate.

6. Following the sealing of records pursuant to this section, the admission of the person who is the subject of the records to the public or private hospital or mental health facility is deemed never to have occurred, and the person may answer accordingly any question related to its occurrence, except in connection with:

(a) An application for a permit to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive;

(b) A transfer of a firearm; or

(c) An application for a position of employment described in subsection 4.

~~*[6.]*~~ *7. As used in this section:*

(a) "Firefighter" means a person who is a salaried employee of a fire-fighting agency and whose principal duties are to control, extinguish, prevent and suppress fires. As used in this paragraph, "fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.

(b) "Peace officer" has the meaning ascribed to it in NRS 289.010.

(c) "Seal" means placing records in a separate file or other repository not accessible to the general public.

Sec. 2. NRS 433A.701, 433A.703, 433A.705, 433A.707, 433A.709 and 433A.711 are hereby repealed.

Sec. 3. This act becomes effective on July 1, 2007.

LEADLINES OF REPEALED SECTIONS

433A.701 Definitions.
433A.703 Right to petition for sealing of records.
433A.705 Petition: Filing, contents and supplemental documents.
433A.707 Notice of hearing on petition.
433A.709 Hearing; determination; court order.
433A.711 Effect of sealing records; inspection after sealing.

Senator Washington moved the adoption of the amendment.

Remarks by Senators Washington and Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 498.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 752.

"SUMMARY—Makes various changes to provisions concerning certain actions to determine paternity. (BDR 11-1403)"

"AN ACT relating to parentage; creating a conclusive presumption of paternity in certain circumstances; expanding the persons authorized to perform certain tests to determine paternity; *clarifying that the results of such tests and any sample or specimen taken may be used only for certain purposes;* revising certain provisions concerning voluntary acknowledgments of paternity; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that if the results of a blood test or genetic test establish a probability of the alleged father's paternity of 99 percent or more, the results of such a test create a conclusive presumption of paternity except in certain limited circumstances. (NRS 126.051)

Sections 4 and 12 of this bill amend existing law to provide that a person designated by the Division of Welfare and Supportive Services of the Department of Health and Human Services, the district attorney or the Attorney General is authorized to perform certain tests for the typing of blood or the taking of specimens for genetic identification in paternity cases. (NRS 126.121, 652.210) *Section 4 also clarifies that the results of such tests and any sample or specimen taken may be used only for the purposes specified in chapter 126 of NRS.*

Sections 2 and 7-11 of this bill amend existing law to provide that the mother and father of a child may sign a declaration under penalty of perjury, rather than an affidavit which requires the signature of a notary public, for the voluntary acknowledgment of paternity of a child. (NRS 126.053, 440.280, 440.283, 440.287, 440.325, 449.246)

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

Section 1. NRS 126.051 is hereby amended to read as follows:

126.051 1. A man is presumed to be the natural father of a child if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 285 days after the marriage is terminated by death, annulment, declaration of invalidity or divorce, or after a decree of separation is entered by a court.

(b) He and the child's natural mother were cohabiting for at least 6 months before the period of conception and continued to cohabit through the period of conception.

(c) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is invalid or could be declared invalid, and:

(1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 285 days after its termination by death, annulment, declaration of invalidity or divorce; or

(2) If the attempted marriage is invalid without a court order, the child is born within 285 days after the termination of cohabitation.

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child.

~~[(e) Blood]~~

2. A conclusive presumption that a man is the natural father of a child is established if tests *for the typing of blood* or tests for genetic identification made pursuant to NRS 126.121 show a probability of 99 percent or more that he is the father ~~[.]~~ *except that the presumption may be rebutted if he establishes that he has an identical sibling who may be the father.*

~~[2.]~~ *3.* A presumption under ~~[this section]~~ *subsection 1* may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

Sec. 2. NRS 126.053 is hereby amended to read as follows:

126.053 1. After the expiration of the period described in subsection 2, ~~[an affidavit]~~ *a declaration* for the voluntary acknowledgment of paternity developed by the State Board of Health pursuant to NRS 440.283 shall be deemed to have the same effect as a judgment or order of a court determining the existence of the relationship of parent and child if the ~~[affidavit]~~ *declaration* is signed in this or any other state by the mother and father of the child. ~~[An affidavit]~~ *A declaration* for the voluntary acknowledgment of paternity that is signed pursuant to this subsection is not required to be ratified by a court of this State before the ~~[affidavit]~~ *declaration* is deemed to

have the same effect as a judgment or order of a court determining the existence of the relationship of parent and child.

2. A person who signs an acknowledgment of paternity in this State may rescind the acknowledgment:

(a) Within 60 days after the acknowledgment is signed by both persons; or

(b) Before the date on which an administrative or judicial proceeding relating to the child begins if that person is a party to the proceeding,

➥ whichever occurs earlier.

3. After the expiration of the period during which an acknowledgment may be rescinded pursuant to subsection 2, the acknowledgment may not be challenged except upon the grounds of fraud, duress or material mistake of fact. The burden of proof is on the person challenging the acknowledgment to establish that the acknowledgment was signed because of fraud, duress or material mistake of fact.

4. Except upon a showing of good cause, a person's obligation for the support of a child must not be suspended during a hearing to challenge a voluntary acknowledgment of paternity.

Sec. 3. NRS 126.101 is hereby amended to read as follows:

126.101 1. The child must be made a party to the action. If he is a minor, he must be represented by his general guardian or a guardian ad litem appointed by the court. The child's mother or father may not represent the child as guardian or otherwise. If a district attorney brings an action pursuant to NRS 125B.150 and the interests of the child:

(a) Are adequately represented by the appointment of the district attorney as his guardian ad litem, the district attorney shall act as guardian ad litem for the child without the need for court appointment.

(b) Are not adequately represented by the appointment of the district attorney as his guardian ad litem, the Division of Welfare and Supportive Services of the Department of Health and Human Services must be appointed as guardian ad litem in the case.

2. The natural mother and a man presumed to be the father under NRS 126.051 must be made parties, but if more than one man is presumed to be the natural father, only a man presumed pursuant to subsection 2 *or 3* of NRS 126.051 is an indispensable party. Any other presumed or alleged father may be made a party.

3. The court may align the parties.

Sec. 4. NRS 126.121 is hereby amended to read as follows:

126.121 1. The court may, and shall upon the motion of a party, order the mother, child, alleged father or any other person so involved to submit to one or more tests for the typing of blood or taking of specimens for genetic identification to be made by *a* *designated person* , ~~*[designated by an enforcing authority,]*~~ *by* qualified physicians or *by* other qualified persons, under such restrictions and directions as the court or judge deems proper. Whenever such a test is ordered and made, the results of the test must be received in evidence and must be made available to a judge, master or referee

conducting a hearing pursuant to NRS 126.111. *The results of the test and any sample or specimen taken may be used only for the purposes specified in this chapter.* Unless a party files a written objection to the result of a test at least 30 days before the hearing at which the result is to be received in evidence, the result is admissible as evidence of paternity without foundational testimony or other proof of authenticity or accuracy. The order for such a test also may direct that the testimony of the experts and of the persons so examined may be taken by deposition or written interrogatories.

2. If any party refuses to submit to or fails to appear for a test ordered pursuant to subsection 1, the court may presume that the result of the test would be adverse to the interests of that party or may enforce its order if the rights of others and the interests of justice so require.

3. The court, upon reasonable request by a party, shall order that independent tests for determining paternity be performed by other experts or qualified laboratories.

4. In all cases, the court shall determine the number and qualifications of the experts and laboratories.

5. As used in this section ~~*[, "enforcing]*~~ *:*

(a) "Designated person" means a person who is:

(1) Properly trained to take samples or specimens for tests for the typing of blood and genetic identification; and

(2) Designated by an enforcing authority to take such samples or specimens.

(b) "Enforcing authority" means the Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative, a district attorney or the Attorney General when acting pursuant to NRS 425.380.

Sec. 5. NRS 128.150 is hereby amended to read as follows:

128.150 1. If a mother relinquishes or proposes to relinquish for adoption a child who has:

(a) A presumed father ~~[under subsection 1 of]~~ *pursuant to* NRS 126.051;

(b) A father whose relationship to the child has been determined by a court; or

(c) A father as to whom the child is a legitimate child under chapter 126 of NRS, under prior law of this State or under the law of another jurisdiction,

➥ and the father has not consented to the adoption of the child or relinquished the child for adoption, a proceeding must be brought pursuant to this chapter and a determination made of whether a parent and child relationship exists and if so, if it should be terminated.

2. If a mother relinquishes or proposes to relinquish for adoption a child who does not have:

(a) A presumed father ~~[under subsection 1 of]~~ *pursuant to* NRS 126.051;

(b) A father whose relationship to the child has been determined by a court;

(c) A father as to whom the child is a legitimate child under chapter 126 of NRS, under prior law of this State or under the law of another jurisdiction; or

(d) A father who can be identified in any other way,

➥ or if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the district court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.

3. In an effort to identify and protect the interests of the natural father, the court which is conducting a proceeding pursuant to this chapter shall cause inquiry to be made of the mother and any other appropriate person. The inquiry must include the following:

(a) Whether the mother was married at the time of conception of the child or at any time thereafter.

(b) Whether the mother was cohabiting with a man at the time of conception or birth of the child.

(c) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.

(d) Whether any man has formally or informally acknowledged or declared his possible paternity of the child.

4. If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each must be given notice of the proceeding in accordance with subsection 6 of this section or with this chapter, as applicable. If any of them fails to appear or, if appearing, fails to claim custodial rights, such failure constitutes abandonment of the child. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine custodial rights.

5. If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child. Subject to the disposition of any appeal, upon the expiration of 6 months after an order terminating parental rights is issued under this subsection, or this chapter, the order cannot be questioned by any person in any manner or upon any ground, including fraud, misrepresentation, failure to give any required notice or lack of jurisdiction of the parties or of the subject matter.

6. Notice of the proceeding must be given to every person identified as the natural father or a possible natural father in the manner provided by law and the Nevada Rules of Civil Procedure for the service of process in a civil action, or in any manner the court directs. Proof of giving the notice must be filed with the court before the petition is heard.

Sec. 6. NRS 425.345 is hereby amended to read as follows:

425.345 To the extent they are not inconsistent with the provisions of this chapter, the provisions of chapters 31A, 125B and 126 of NRS apply to ~~[a hearing held]~~ *any action taken* pursuant to the provisions of this chapter.

Sec. 7. NRS 440.280 is hereby amended to read as follows:

440.280 1. If a birth occurs in a hospital or the mother and child are immediately transported to a hospital, the person in charge of the hospital or his designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the certificate and file it within 10 days with the health officer of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within the required 72 hours, the person in charge of the hospital or his designated representative shall complete and sign the certification.

2. If a birth occurs outside a hospital and the mother and child are not immediately transported to a hospital, the birth certificate must be prepared and filed by one of the following persons in the following order of priority:

(a) The physician in attendance at or immediately after the birth.

(b) Any other person in attendance at or immediately after the birth.

(c) The father, mother or, if the father is absent and the mother is incapacitated, the person in charge of the premises where the birth occurred.

3. If a birth occurs in a moving conveyance, the place of birth is the place where the child is removed from the conveyance.

4. In cities, the certificate of birth must be filed sooner than 10 days after the birth if so required by municipal ordinance or regulation.

5. If the mother was:

(a) Married at the time of birth, the name of her husband must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband is the father of the child; or

(2) The mother and a person other than the mother's husband have signed ~~[an affidavit]~~ *a declaration* for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

(b) Widowed at the time of birth but married at the time of conception, the name of her husband at the time of conception must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband at the time of conception is the father of the child; or

(2) The mother and a person other than the mother's husband at the time of conception have signed ~~[an affidavit]~~ *a declaration* for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

6. If the mother was unmarried at the time of birth, the name of the father may be entered on the original certificate of birth only if:

(a) The provisions of paragraph (b) of subsection 5 are applicable;

(b) A court has issued an order establishing that the person is the father of the child; or

(c) The mother and father of the child have signed ~~[an affidavit]~~ *a declaration* for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283. If both the father and mother execute ~~[an affidavit]~~ *a declaration* consenting to the use of the surname of the father as the surname of the child, the name of the father must be entered on the original certificate of birth and the surname of the father must be entered thereon as the surname of the child.

7. An order entered or ~~[an affidavit]~~ *a declaration* executed pursuant to subsection 6 must be submitted to the local health officer, his authorized representative, or the attending physician or midwife before a proper certificate of birth is forwarded to the State Registrar. The order or ~~[affidavit]~~ *declaration* must then be delivered to the State Registrar for filing. The State Registrar's file of orders and ~~[affidavits]~~ *declarations* must be sealed and the contents of the file may be examined only upon order of a court of competent jurisdiction or at the request of the father or mother or the Division of Welfare and Supportive Services of the Department of Health and Human Services as necessary to carry out the provisions of 42 U.S.C. § 654a. The local health officer shall complete the original certificate of birth in accordance with subsection 6 and other provisions of this chapter.

8. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.

Sec. 8. NRS 440.283 is hereby amended to read as follows:

440.283 1. The Board shall:

(a) Develop ~~[an affidavit]~~ *a declaration to be signed under penalty of perjury* for the voluntary acknowledgment of paternity in this State that complies with the requirements prescribed by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 652(a); and

(b) Distribute the ~~[affidavits]~~ *declarations* to:

(1) Each hospital or obstetric center in this State; and

(2) Any other entity authorized to provide services relating to the voluntary acknowledgment of paternity pursuant to the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

2. Subject to the provisions of subsection 3, the State Registrar of Vital Statistics and the entities described in paragraph (b) of subsection 1 shall offer to provide services relating to the voluntary acknowledgment of paternity in the manner prescribed in the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

3. Before providing ~~[an affidavit]~~ *a declaration* for the acknowledgment of paternity to the mother of a child or a person who wishes to acknowledge the paternity of the child, the agencies described in paragraph (b) of subsection 1 shall ensure that the mother and the person who wishes to acknowledge paternity are given notice, orally and in writing, of the rights,

responsibilities and legal consequences of, and the alternatives to, signing the ~~[affidavit]~~ *declaration* for the acknowledgment of paternity.

Sec. 9. NRS 440.287 is hereby amended to read as follows:

440.287 1. If a mother or a person who has signed ~~[an affidavit]~~ *a declaration* for the voluntary acknowledgment of paternity with the mother rescinds the acknowledgment pursuant to subsection 2 of NRS 126.053, the State Registrar shall not issue a new certificate of birth to remove the name of the person who originally acknowledged paternity unless a court issues an order establishing that the person who acknowledged paternity is not the father of the child.

2. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.

Sec. 10. NRS 440.325 is hereby amended to read as follows:

440.325 1. In the case of the paternity of a child being established by the:

(a) Mother and father acknowledging paternity of a child by signing ~~[an affidavit]~~ *a declaration* for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283; or

(b) Order of a district court,

➥ the State Registrar, upon the receipt of the ~~[affidavit]~~ *declaration* or court order, shall prepare a new certificate of birth in the name of the child as shown in the ~~[affidavit]~~ *declaration* or order with no reference to the fact of legitimation.

2. The new certificate must be identical with the certificate registered for the birth of a child born in wedlock.

3. Except as otherwise provided in subsection 4, the evidence upon which the new certificate was made and the original certificate must be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

4. The State Registrar shall, upon the request of the Division of Welfare and Supportive Services of the Department of Health and Human Services, open a file that has been sealed pursuant to subsection 3 to allow the Division to compare the information contained in the ~~[affidavit]~~ *declaration* or order upon which the new certificate was made with the information maintained pursuant to 42 U.S.C. § 654a.

Sec. 11. NRS 449.246 is hereby amended to read as follows:

449.246 1. Before discharging an unmarried woman who has borne a child, a hospital or obstetric center shall provide to the child's mother and father:

(a) The opportunity to sign, in the hospital, ~~[an affidavit]~~ *a declaration* for the voluntary acknowledgment of paternity developed pursuant to NRS 440.283;

(b) Written materials about establishing paternity;

(c) The forms necessary to acknowledge paternity voluntarily;

(d) A written description of the rights and responsibilities of acknowledging paternity; and

(e) The opportunity to speak by telephone with personnel of the program for enforcement of child support who are trained to clarify information and answer questions about the establishment of paternity.

2. The Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services shall adopt the regulations necessary to ensure that the services provided by a hospital or obstetric center pursuant to this section are in compliance with the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

Sec. 12. NRS 652.210 is hereby amended to read as follows:

652.210 ~~[No]~~

1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a licensed physician assistant, a certified osteopathic physician's assistant, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens . ~~[, except that]~~

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 514.

Bill read second time.

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

Amendment No. 883.

"SUMMARY—Makes various changes to the Charter of the City of Las Vegas. (BDR S-1381)"

"AN ACT relating to the City of Las Vegas; making various changes to the powers of the City Council; making various other changes to the Charter of the City of Las Vegas; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that the City Council of the City of Las Vegas has the power to adopt necessary and proper ordinances for the development and provision of affordable housing ~~[.]~~ *, but prohibits the imposition or increase of a tax by the City Council for those purposes unless otherwise authorized by specific statute.*

~~[Section 2 of this bill authorizes the City Council to establish a salary commission with the authority to fix the salaries of the Mayor and City Councilmen, the members of which are to be appointed by the Majority Leader of the Senate and the Speaker of the Assembly.]~~

Section 3 of this bill provides that the City Council has the power to adopt necessary and proper ordinances for the development and provision of employment and training programs ~~[.]~~ *, but prohibits the imposition or increase of a tax by the City Council for those purposes unless otherwise authorized by specific statute.*

Section 4 of this bill provides for the appointment of Hearing Commissioners by the City Council to hear and decide certain misdemeanor actions.

~~[Section 5 of this bill extends the time that the City Council has to fill vacancies in the office of Mayor, Councilman or Municipal Judge from 30 to 60 days.]~~

Section 8 of this bill amends the time by which a proposed ordinance must be adopted or rejected by the City Council from 30 days to 60 days. *(Las Vegas City Charter § 2.110)*

Section 9 of this bill authorizes the City Council to adopt an alternative procedure for a person to appeal the denial, suspension or revocation of a work permit or *an* identification card. *(Las Vegas City Charter § 2.130)*

Section 11 of this bill authorizes the Director of Financial Management of the City to serve as the City Treasurer ~~[.]~~ *if appropriate internal accounting controls are maintained. (Las Vegas City Charter § 3.150)*

Section 12 of this bill removes the requirement that the Director of Public Services be a licensed professional engineer. *(Las Vegas City Charter § 3.190)*

Existing law provides that a Master Judge must be selected on the basis of seniority. (Las Vegas City Charter § 4.020) Section 13 of this bill provides that the Municipal Judges shall elect the Master Judge from among their own number to serve for a 2-year term. In the event of a tie vote, the tie is to be decided by the drawing of lots.

Section 14 of this bill provides that the City Council may determine that the System of Civil Service must be administered by a Board of Civil Service Trustees. *(Las Vegas City Charter § 10.010)*

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

Section 1. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 2.145, immediately following section 2.140, to read as follows:

Sec. 2.145 Powers of City Council: Affordable Housing. ~~*[In]*~~

1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, the City Council may exercise such powers and enact such ordinances, not in conflict with

the laws of this State, as the City Council determines are necessary and proper for the development and provision of affordable housing.

2. The City Council shall not impose or increase a tax for the purposes set forth in subsection 1 unless the tax or increase is otherwise authorized by specific statute.

Sec. 2. ~~[The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 2.340, immediately following section 2.330, to read as follows:~~

~~*Sec. 2.340 Powers of City Council: Salaries of Mayor and Councilmen.*~~

~~*1. The City Council may by ordinance or resolution establish an independent salary commission to fix the salaries of the Mayor and the Councilmen. Such ordinance or resolution must include, without limitation, the terms of office of the members of the salary commission. If the City Council establishes a salary commission by ordinance or resolution, it shall provide written notice of that fact to:*~~

~~*(a) The Majority Leader of the Senate; and*~~

~~*(b) The Speaker of the Assembly.*~~

~~*2. If a salary commission is established pursuant to subsection 1, the Majority Leader of the Senate and the Speaker of the Assembly, within 60 days after receiving the written notice described in that subsection, shall jointly appoint to the salary commission a total of seven members, one of whom must be a member at large and six of whom must represent the different wards into which the City is divided. Each of the six members representing one of the wards into which the City is divided must be a person who:*~~

~~*(a) Resides within the ward which he represents;*~~

~~*(b) Is not a member of the household of the Councilman who represents that ward;*~~

~~*(c) Is not related by blood, adoption or marriage within the third degree of consanguinity or affinity to the Councilman who represents that ward; and*~~

~~*(d) Does not have a substantial and continuing business relationship with either the City or the Councilman who represents that ward.*~~

~~*3. A member must be appointed on the basis of his education, training, experience and demonstrated abilities. Of the total of the seven members appointed to the salary commission:*~~

~~*(a) One member must be affiliated with an organization representing the interests of businesses;*~~

~~*(b) One member must be affiliated with an organization representing the interests of taxpayers;*~~

~~*(c) One member must be affiliated with an organization representing the interests of the development community;*~~

~~*(d) One member must have expertise in human resource management;*~~

~~*(e) One member must have expertise in finance; and*~~

~~*(f) Two members must be representative of the general public.*~~

~~*4. Members of the salary commission:*~~

~~*(a) Serve without compensation; and*~~

~~*(b) May, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the salary commission.*~~

~~*5. The salary commission must meet at least once every 5 years.*~~

~~*6. The salary commission is entitled to such staff or employees of the City as is necessary to assist in the performance of the duties of the salary commission that are set forth in subsection 7.*~~

~~*7. In setting the salaries of the Mayor and Councilmen, the salary commission shall conduct at least one public hearing and consider the following:*~~

~~*(a) The amount of work performed by the Mayor or Councilmen in representing their constituents, based upon the population and geographical size of the area that the Mayor or Councilmen represent.*~~

~~*(b) The amount of time dedicated by the Mayor or Councilmen in representing their constituents.*~~

~~*(c) The projected population growth of the City.*~~

~~*(d) Existing compensation levels for comparable positions in other geographic locations.*~~

~~*(e) The current and projected financial conditions of the City.*~~

~~*(f) Any other condition or factor that the salary commission determines is relevant to fixing the salaries of the Mayor or the Councilmen.]*~~ *(Deleted by amendment.)*

Sec. 3. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 3.300, immediately following section 3.290, to read as follows:

Sec. 3.300 Programs: Employment and Training. ~~*[In]*~~

1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, the City Council may exercise such powers and enact such ordinances, not in conflict with the laws of this State, as the City Council determines are necessary and proper for the development and provision of programs relating to employment and training.

2. The City Council shall not impose or increase a tax for the purposes set forth in subsection 1 unless the tax or increase is otherwise authorized by specific statute.

Sec. 4. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new

section to be designated as section 4.040, immediately following section 4.030, to read as follows:

Sec. 4.040 Hearing Commissioners.

1. The City Council may appoint one or more Hearing Commissioners to hear and decide:

(a) Any action for a misdemeanor constituting a violation of chapter 484 of NRS, except NRS 484.379; and

(b) Any action for a misdemeanor constituting a violation of the Las Vegas Municipal Code, except chapter 11.14 of that Code.

2. Each Hearing Commissioner must:

(a) Be a duly licensed member, in good standing, of the State Bar of Nevada;

(b) Be a resident of the State;

(c) Be a qualified elector in the City;

(d) Have been a bona fide resident of the City for not less than 1 year next preceding his appointment; and

(e) Not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline.

3. In connection with any action of a type described in subsection 1, a Hearing Commissioner has all the powers and duties of a Municipal Judge and a magistrate pursuant to the laws of this State. To the extent possible and practicable, the proceedings in such actions must be subject to and governed by the provisions of the laws of this State, this Charter and city ordinances pertaining to Municipal Judges.

4. Hearing Commissioners shall receive such compensation as may be allowed by the City Council.

Sec. 5. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 515, Statutes of Nevada 1997, at page 2451, is hereby amended to read as follows:

Sec. 1.160 Elective Offices: Vacancies.

1. A vacancy in the office of Mayor, Councilman or Municipal Judge must be filled by the majority vote of the entire City Council within 30 ~~*[60]*~~ days after the occurrence of that vacancy. A person may be selected to fill a prospective vacancy ~~[in the City Council]~~ before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official ~~[.]~~ *, including, without limitation, any applicable residency requirement.*

2. No appointment extends beyond the first regular meeting of the City Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the

Tuesday after the first Monday in the next succeeding June in an odd-numbered year, if no general municipal election is held in that year.

Sec. 6. ~~[Section 2.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1394, is hereby amended to read as follows:~~

~~Sec. 2.020 Mayor and Councilmen: Qualifications; terms of office; salary.~~

~~1. The Mayor must be a qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for that office and be elected by the registered voters of the City at large.~~

~~2. Each Councilman must be a qualified elector who has resided within the ward which he represents for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for his office and be elected by the registered voters of that ward.~~

~~3. The Mayor or any Councilman automatically forfeits the remainder of his term of office and that office becomes vacant if he ceases to be a resident of the City or of the ward which he represents, as the case may be.~~

~~4. [The] *Except as otherwise provided in section 2 of this act, the* respective salaries of the Mayor and Councilmen must be fixed by ordinance.]~~ *(Deleted by amendment.)*

Sec. 7. Section 2.040 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1394, is hereby amended to read as follows:

Sec. 2.040 Mayor and Councilmen not to hold other office.

1. The Mayor and Councilmen may not:

(a) Hold any other elective office of the State or any political subdivision of the State or any other employment with the County or the City, except as is provided by law or as a member of a board or commission for which no compensation is received.

(b) Be ~~[elected or]~~ appointed to any office which was created, or the compensation for which was increased or fixed, by the City Council until 1 year after the expiration of the term for which the Mayor or Councilman was elected or appointed.

2. Any person who ~~[accepts any office which is proscribed by]~~ *violates the provisions of* subsection 1 automatically forfeits his office as Mayor or Councilman.

Sec. 8. Section 2.110 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 568, Statutes of Nevada 1991, at page 1882, is hereby amended to read as follows:

Sec. 2.110 Ordinances: Procedure for enactment; emergency ordinances.

1. All proposed ordinances, when they are first proposed, must be read to the City Council by title and *may be* referred for consideration to a committee which is composed of any number of members of the City Council who are designated by the Mayor, after which an adequate number of copies of the proposed ordinance must be deposited with the City Clerk for public examination and distribution upon request. Except as otherwise provided in subsection 3 and for the adoption of specialized or uniform codes, notice of the deposit must be published once at least 10 days before the adoption of the ordinance. The City Council must adopt or reject the ordinance, or an amendment thereto, within ~~[30]~~ *60* days after the date of that publication. *A committee described in this subsection shall meet as often as is reasonably necessary but not less frequently than once each calendar quarter.*

2. ~~[At the first regular meeting of the City Council, or any adjournment of that meeting, after the proposal of an ordinance and its reference to a committee, the committee must report to the City Council with respect to the proposed ordinance, at which time the committee may request additional time to consider it. The committee must complete its additional consideration of the proposed ordinance and report its recommendations to the board with the 30-day period which is specified in subsection 1. After a recommendation by the committee for the adoption of the proposed ordinance, the]~~ *Following the first reading by title, an ordinance that has been referred pursuant to subsection 1 must be considered by the committee. Such committee must report its recommendations, if any, to the City Council. Regardless of whether a* proposed ordinance *is referred to a committee pursuant to subsection 1, it* must be read by title as first introduced, or as amended, and finally voted upon or action thereon postponed, but the proposed ordinance must be adopted, with or without amendments, or rejected within ~~[30]~~ *60* days after the date of the publication which is provided for in subsection 1.

3. In cases of emergency or where the ordinance is of a kind whose enactment as if an emergency existed is permitted by a provision of NRS or section 7.020 or 8.210 of this Charter, final action, upon the unanimous vote of the entire City Council, may be taken immediately or at a special meeting which has been called for that purpose, and no notice of the filing of copies of the proposed ordinance with the City Clerk need be published.

4. Each ordinance must be signed by the Mayor, attested by the City Clerk and published at least once by title, together with the names of the members of the City Council who voted for or against its adoption, and the ordinance becomes effective on the day after that

publication. The City Council may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

5. The City Clerk shall record all ordinances which have been adopted in a register which is kept for that purpose, together with the affidavits of publication by the publisher.

Sec. 9. Section 2.130 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1398, is hereby amended to read as follows:

Sec. 2.130 Powers of City Council: Denial, suspension or revocation of work permit; appeal to City Council ~~[.]~~ *; alternative procedure established by City Council.* Whenever under any city ordinance a person is required to obtain a work permit or an identification card from the Sheriff of the Las Vegas Metropolitan Police Department or any City officer as a condition of employment in any establishment which has been determined to be privileged by the City Council and licensed by the City, and his work permit or identification card is denied, suspended or revoked by the Sheriff or City officer, the person aggrieved may ~~[appeal from that action:]~~ [to] ~~*[:*~~ ~~*1. To the City Council]*~~ *,* by filing a written notice of appeal with the City Clerk within 10 days after the date of the denial, suspension or revocation of his work permit or identification card ~~[.]~~ ~~*[; or*~~

~~*2. To any judicial or]*~~ *, appeal from that action to:*

(a) The City Council, unless the City Council has designated an administrative body pursuant to paragraph (b); or

(b) Any administrative body that the City Council has designated to hear such appeals. If such an administrative body denies a person's appeal, the person may appeal to the City Council.

Sec. 10. (Deleted by amendment.)

Sec. 11. Section 3.150 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:

Sec. 3.150 City Treasurer: Duties.

1. The Director of Financial Management may *serve as the City Treasurer if appropriate internal accounting controls are maintained or may* recommend *a City Treasurer* for appointment by the City Manager . ~~[a City Treasurer.]~~

2. The City Treasurer:

(a) Shall perform such duties as may be designated by the Director of Financial Management or prescribed by ordinance.

(b) Must provide a surety bond in the amount which is fixed by the City Council.

Sec. 12. Section 3.190 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1410, is hereby amended to read as follows:

Sec. 3.190 Director of Public Services: Qualifications. The Director of Public Services must ~~[be a licensed professional engineer in the State and]~~ have such ~~[other]~~ qualifications as may be prescribed by ordinance.

Sec. 13. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 127, Statutes of Nevada 1989, at page 283, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his full time to the duties of his office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

3. ~~[The Municipal Judge who holds seniority in years of service in office, either elected or appointed, is the Master Judge. If two or more Judges are equal in seniority, the]~~ *The Municipal Judges of the six departments shall elect a* Master Judge ~~[must be chosen]~~ from among ~~[them by the City Council.]~~ *their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots.* The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

4. Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while he is acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

5. Any Municipal Judge, other than an Alternate Judge, automatically forfeits his office if he ceases to be a resident of the City.

Sec. 14. Section 10.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 45, Statutes of Nevada 1991, at page 95, is hereby amended to read as follows:

Sec. 10.010 Civil Service.

1. There is hereby created a System of Civil Service which is applicable to and governs all of the employees of the City except the elected officials, persons who serve as members of boards, commissioners or committees for which no compensation is received, the City Manager, the City Attorney, persons who are appointed pursuant to sections 3.040 and 3.070 of this Charter, persons who hold such probationary, provisional or temporary appointments as are designated in the Civil Service rules, Alternate Judges and persons who hold such other positions as are designated by the City Council.

2. The *City Council may determine that the* System of Civil Service must be administered by a Board of Civil Service Trustees which is composed of five members who are appointed by the City Council for terms of 4 years.

3. The City Council shall adopt by ordinance ~~[, following their approval by the Board of Civil Service Trustees,]~~ a codification of the rules which govern the System of Civil Service and may from time to time amend those rules . ~~[by ordinance upon the recommendation of the]~~ *If the System of Civil Service is administered by a* Board of Civil Service Trustees ~~[. Those]~~ *, the rules which govern the System of Civil Service, and any amendments thereto, must be reviewed by the Board before the City Council adopts them.*

4. The rules *which govern the System of Civil Service* must provide for:

(a) The examination of potential employees;

(b) Recruitment and placement procedures;

(c) The classification of positions;

(d) Procedures for the promotion of employees;

(e) Procedures for disciplinary actions against, and the discharge of, employees;

(f) Appeals with respect to actions which are taken pursuant to paragraphs (d) and (e);

(g) The acceptance and processing of citizens' complaints against employees; and

(h) Such other matters , *if any,* as the Board of Civil Service Trustees *or the City Council* deems are necessary or appropriate.

~~[4.]~~ *5.* Copies of the rules of the System of Civil Service must be made available to all of the employees of the City.

Sec. 15. 1. This section becomes effective upon passage and approval.

2. Section 13 of this act becomes effective upon passage and approval for the purpose of electing a Master Judge and on July 1, 2007, for all other purposes.

3. Sections 1 to 12, inclusive, and 14 of this act become effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Carlton.

Senator Carlton moved that Assembly Bill No. 514 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Carlton.

Motion carried.

Assembly Bill No. 518.

Bill read second time.

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

Amendment No. 701.

"SUMMARY—Revises provisions governing the regulation of telecommunication service. (BDR 58-1128)"

"AN ACT relating to telecommunication service; revising provisions governing the regulation of certain incumbent local exchange carriers; revising provisions governing the regulation of competitive suppliers of telecommunication service; allowing for greater competition among various telecommunication providers; repealing provisions governing the plan of alternative regulation and PAR carriers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to regulate public utilities that provide telecommunication service to the public. With regard to local telephone service, each service territory has an incumbent local exchange carrier that has an obligation to serve the customers within that particular territory. If no other telecommunication provider is authorized to serve the customers in that particular territory, the incumbent local exchange carrier essentially has a monopoly with regard to local telephone service. (Chapter 704 of NRS)

To foster competition in the local telephone market, existing law allows the Commission to establish a plan of alternative regulation (PAR), whereby

an incumbent local exchange carrier may elect to become a PAR carrier under a regulatory scheme which allows flexibility of pricing for certain competitive, discretionary and deregulated services. Under the PAR regulatory scheme, the PAR carrier is allowed to sell such services under less regulated conditions, and other telecommunication providers, known as competitive suppliers, have the opportunity to compete with the PAR carrier in the local telephone market. However, as the incumbent local exchange carrier, the PAR carrier generally retains its obligations as the provider of last resort of basic telephone service and must ensure that such telephone service remains available at affordable rates to the customers within its service territory. (NRS 704.040, 704.68904-704.68984)

This bill repeals the PAR regulatory scheme and replaces it with a regulatory scheme that is intended to promote more competition in the local telephone market. Under this bill, all telecommunication providers, with the exception of certain small-scale providers of last resort, are classified as competitive suppliers. This bill reduces the regulatory authority of the Commission over such competitive suppliers and provides for greater flexibility of pricing with regard to most components of local telephone service, including basic telephone service.

This bill also requires the Commission to adopt regulations establishing the terms, conditions and procedures under which: (1) an incumbent local exchange carrier may be excused from its obligations as the provider of last resort; and (2) those obligations may be reinstated. The regulations must also establish the manner of giving prior notice and the terms of any bond necessary to protect consumers and ensure continuity of basic telephone service when a provider other than an incumbent local exchange carrier intends to terminate or discontinue such service.

Finally, to maintain the availability of telephone service to rural, insular and high-cost areas, this bill requires the Commission to continue to levy and collect a uniform and equitable assessment from all telecommunication providers. The proceeds of the assessment must be used to reimburse providers of last resort so that they are able to provide telephone service to rural, insular and high-cost areas.

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. *"Basic network service" means the provision of stand-alone telephone service furnished to a residential customer through the customer's primary residential line as the only service that:*

1. Is not:

(a) Part of a package of services;

(b) Sold in a promotion;

(c) Purchased pursuant to a contract; or

(d) Otherwise offered at a discounted price; and

2. Provides to the customer:

(a) Voice-grade access to the public switched telephone network with a minimum bandwidth of 300 to 3,000 hertz;

(b) Dual tone multifrequency signaling and single party service;

(c) Access to:

(1) Operator services;

(2) Telephone relay services;

(3) Local directory assistance;

(4) Interexchange service; and

(5) Emergency 911 service.

(d) The first single-line directory listing; and

(e) Universal lifeline service for those eligible for such service.

Sec. 3. *"Business line service" means flat or measured rate service for business lines or business trunk lines.*

Sec. 4. *1. "Competitive supplier" means a telecommunication provider that is subject to the provisions of sections 18 to 30, inclusive, of this act.*

2. The term does not include a small-scale provider of last resort unless the provider is authorized by the Commission pursuant to section 21 of this act to be regulated as a competitive supplier.

Sec. 5. *"Fund to maintain the availability of telephone service" means the fund established by the Commission pursuant to NRS 704.040 to maintain the availability of telephone service.*

Sec. 6. *"Incumbent local exchange carrier" has the meaning ascribed to it in 47 U.S.C. § 251(h)(1), as that section existed on October 1, 1999, and includes a local exchange carrier that is treated as an incumbent local exchange carrier pursuant to that section.*

Sec. 7. *"Interexchange carrier" means any person providing either or both intrastate and interstate telecommunication service for a fee between two or more exchanges.*

Sec. 8. *"Local exchange carrier" has the meaning ascribed to it in 47 U.S.C. § 153(26), as that section existed on December 1, 2006.*

Sec. 9. *"Provider of last resort" means the telecommunication provider designated by the regulations of the Commission to provide basic network service and business line service to any person requesting and eligible to receive telephone service in a particular service territory.*

Sec. 10. *"Small-scale provider of last resort" means an incumbent local exchange carrier that is a provider of last resort of basic network service and business line service to customers through less than 60,000 access lines.*

Sec. 11. *"Telecommunication" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received, regardless of the facilities, equipment or technology used.*

Sec. 12. *"Telecommunication provider" or "telephone company" means any person required to obtain from the Commission a certificate of public convenience and necessity pursuant to NRS 704.330 to provide telecommunication service.*

Sec. 13. *"Telecommunication service" or "telephone service" means the offering of telecommunication for a fee directly to the public, or such classes of users as to be effectively available directly to the public, regardless of the equipment, facilities or technology used.*

Sec. 14. *1. The Commission shall by regulation establish a procedure for an incumbent local exchange carrier to provide notice via the Internet of interconnection agreements entered into with another telecommunication provider.*

2. The procedure established by the Commission pursuant to this section for providing notice via the Internet is the exclusive method for providing such notice, and the Commission may not require another method of notice.

3. When an incumbent local exchange carrier provides notice via the Internet pursuant to this section, the notice must include a link to the public area of its website where an electronic copy of the interconnection agreements may be obtained.

Sec. 15. *1. The Commission shall adopt regulations that establish:*

(a) The obligations of incumbent local exchange carriers as providers of last resort giving due consideration to the status of the incumbent local exchange carriers as either competitive suppliers or small-scale providers of last resort.

(b) The terms, conditions and procedures under which:

(1) An incumbent local exchange carrier may be excused from the obligations of the provider of last resort; and

(2) The Commission may request an incumbent local exchange carrier to reinstate the obligations of the provider of last resort.

(c) The manner of giving prior written notice of not less than 180 days before another provider of basic network service or business line service may terminate or discontinue such services and the terms of any bond necessary to protect consumers and ensure continuity of such services.

2. The regulations adopted by the Commission may not allow an incumbent local exchange carrier to be excused from the obligations of the provider of last resort in situations where the incumbent local exchange carrier, before the effective date of this act, made an agreement to or was specifically ordered to act as the provider of last resort.

~~Sec. 16.~~ (Deleted by amendment.)

~~Sec. 17.~~ (Deleted by amendment.)

Sec. 18. *1. Except as otherwise provided in this section, any telecommunication provider operating within this State is a competitive supplier that is subject to the provisions of sections 18 to 30, inclusive, of this act.*

2. A small-scale provider of last resort is not a competitive supplier that is subject to the provisions of sections 18 to 30, inclusive, of this act, unless the small-scale provider of last resort is authorized by the Commission pursuant to section 21 of this act to be regulated as a competitive supplier.

Sec. 19. *The provisions of sections 18 to 30, inclusive, of this act do not:*

1. Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or

2. Limit or modify:

(a) The duties of a competitive supplier that is an incumbent local exchange carrier regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or

(b) The authority of the Commission to act pursuant to NRS 704.6881 and 704.6882.

Sec. 20. *The Commission may adopt any regulations that are necessary to carry out the provisions of sections 18 to 30, inclusive, of this act.*

Sec. 20.5. *1. Each competitive supplier that is an incumbent local exchange carrier on the effective date of this act shall:*

(a) On or before October 1, 2008, prepare and submit to the Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report regarding competition in the local markets for telecommunication service, including, without limitation, competition from available alternative services that serve as technological substitutes for telecommunication service. The report must be based on information that is reasonably available from public sources and must contain data, statistical measures and analyses for assessing:

(1) The existing number of customers of the competitive supplier, the forms of telecommunication service provided by the competitive supplier and the prices for such services;

(2) The number of competitors in the local markets within the service territory of the competitive supplier for various forms of telecommunication service, including, without limitation, wireline and wireless telecommunication service, and any available alternative services that serve as technological substitutes for telecommunication service, such as broadband services , ~~*[and video services,]*~~ *and a comparison of the services provided by such competitors and prices for telecommunication service and broadband service;*

(3) The growth or decline, if any, in customers and primary access lines of the competitive supplier during the preceding 5 years; and

(4) The number of persons receiving a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive, within the service territory of the competitive supplier, the price of such service, the consumer

outreach and informational programs used to expand participation of eligible persons in such service, and the management, coordination and training programs implemented by the competitive supplier to increase awareness and use of lifeline and link-up programs.

(b) On or before October 1 of each year thereafter for a period of 4 years, prepare and submit to the Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report that compares and evaluates any changes in the data, prices, statistical measures and analyses set forth in the report submitted by the competitive supplier pursuant to paragraph (a).

2. The Commission shall:

(a) On or before December 1 of each applicable year, provide to the Legislative Commission a copy of the reports received pursuant to subsection 1; and

(b) On or before December 1, 2010, prepare and submit to the Legislative Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report that:

(1) Summarizes and evaluates the data, prices, statistical measures and analyses set forth in the reports submitted by competitive suppliers pursuant to subsection 1;

(2) Provides an assessment of market conditions and the state of competition for telecommunication service in the various geographical areas of this State; and

(3) Includes, without limitation:

(I) A discussion of the types of alternative services that serve as technological substitutes for telecommunication service and the availability of such alternative services in the various geographical areas of this State; and

(II) An assessment of the alternative services that are available for basic network service and business line service considering inter-modal alternatives, technological developments, market conditions and the availability of comparable alternative services in the various geographical areas of this State.

Sec. 21. *1. A small-scale provider of last resort may apply to the Commission to be regulated as a competitive supplier pursuant to sections 18 to 30, inclusive, of this act.*

2. The Commission may grant the application if it finds that the public interest will be served by allowing the small-scale provider of last resort to be regulated as a competitive supplier.

3. If the Commission denies the application, the small-scale provider of last resort:

(a) May not be regulated as a competitive supplier but remains subject to regulation pursuant to this chapter as a telecommunication provider; and

(b) May not submit another application to be regulated as a competitive supplier sooner than 1 year after the date the most recent application was denied, unless the Commission, upon a showing of good cause or changed circumstances, allows the provider to submit another application sooner.

Sec. 22. *1. A competitive supplier is not subject to any review of earnings or monitoring of the rate base or any other regulation by the Commission relating to the net income or rate of return of the competitive supplier, and the Commission shall not consider the rate of return, the rate base or any other earnings of the competitive supplier in carrying out the provisions of sections 18 to 30, inclusive, of this act.*

2. On or before May 15 of each year, a competitive supplier shall file with the Commission an annual statement of income, a balance sheet, a statement of cash flows for the total operations of the competitive supplier and a statement of intrastate service revenues, each prepared in accordance with generally accepted accounting principles.

3. A competitive supplier is not required to submit any other form of financial report or comply with any other accounting requirements, including, without limitation, requirements relating to depreciation and affiliate transactions, imposed upon a public utility by this chapter, chapter 703 of NRS or the regulations of the Commission.

Sec. 23. *1. Except as otherwise provided in sections 18 to 30, inclusive, of this act, a competitive supplier:*

(a) Is exempt from the provisions of NRS 704.100 and 704.110 and the regulations of the Commission relating thereto and from any other provision of this chapter governing the rates, pricing, terms and conditions of any telecommunication service; and

(b) May exercise complete flexibility in the rates, pricing, terms and conditions of any telecommunication service.

2. The rates, pricing, terms and conditions of intrastate switched or special access service provided by a competitive supplier that is an incumbent local exchange carrier and the applicability of such access service to intrastate interexchange traffic are subject to regulation by the Commission, which must be consistent with federal law, unless the Commission deregulates intrastate switched or special access service pursuant to section 26 of this act.

3. A competitive supplier that is an incumbent local exchange carrier shall use a letter of advice to change any rates, pricing, terms and conditions of intrastate switched or special access service, universal lifeline service or access to emergency 911 service. A letter of advice submitted pursuant to this subsection shall be deemed approved if the Commission does not otherwise act on the letter of advice within 120 days after the date on which the letter is filed with the Commission.

Sec. 24. *1. A competitive supplier is not required to maintain or file any schedule or tariff with the Commission.*

2. Each competitive supplier that is an incumbent local exchange carrier:

(a) Shall publish the rates, pricing, terms and conditions of basic network service by:

(1) Posting such rates, pricing, terms and conditions electronically on a publicly available Internet website maintained by the competitive supplier;

(2) Maintaining for inspection by the public a copy of such rates, pricing, terms and conditions at the principal office in Nevada of the competitive supplier; or

(3) Delivering to the customer a copy of the rates, pricing, terms and conditions in writing with the first invoice, billing statement or other written summary of charges for the telecommunication service provided by the competitive supplier to the customer; and

(b) May publish the rates, pricing, terms and conditions of other telecommunication service by:

(1) Posting such rates, pricing, terms and conditions electronically on a publicly available Internet website maintained by the competitive supplier;

(2) Maintaining for inspection by the public a copy of such rates, pricing, terms and conditions at the principal office in Nevada of the competitive supplier; or

(3) Delivering to the customer a copy of the rates, pricing, terms and conditions in writing with the first invoice, billing statement or other written summary of charges for the telecommunication service provided by the competitive supplier to the customer.

Sec. 25. *1. The Commission shall not decrease the rates or pricing of basic network service provided by a competitive supplier, unless the competitive supplier files a general rate application pursuant to paragraph (b) of subsection 2 and the Commission orders a decrease in the rates or pricing of such service in a general rate case proceeding conducted pursuant thereto.*

2. Except as otherwise provided in this section, a competitive supplier that is an incumbent local exchange carrier shall not:

(a) Without the approval of the Commission, discontinue basic network service or change the terms and conditions of basic network service as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007.

(b) Before January 1, 2012, increase the rates or pricing of basic network service as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007, except that notwithstanding any other provision of this chapter:

(1) On or after January 1, 2011, and before January 1, 2012, the competitive supplier may, without the approval of the Commission, increase the rates or pricing of basic network service provided by the competitive supplier but the total of all increases during that period may not result in rates or pricing of basic network service that is more than $1 above the rates

or pricing set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007; and

(2) The Commission may allow the competitive supplier to increase the rates or pricing of basic network service above the amounts authorized by this subsection only if the competitive supplier files a general rate application and proves in a general rate case proceeding conducted pursuant to NRS 704.110 and 704.120 that the increase is absolutely necessary to avoid rates or prices that are confiscatory under the Constitution of the United States or the Constitution of this State. In such a general rate case proceeding, the Commission:

(I) May allow an increase in the rates or pricing of basic network service provided by the competitive supplier only in an amount that the competitive supplier proves in the general rate case proceeding is absolutely necessary to avoid an unconstitutional result and shall not authorize in the general rate case proceeding any rate, price or other relief for the competitive supplier that is not proven by the competitive supplier to be absolutely necessary to avoid an unconstitutional result; and

(II) May order a decrease in the rates or pricing of basic network service provided by the competitive supplier if the Commission determines in the general rate case proceeding that the decrease is necessary to provide customers with just and reasonable rates.

3. On or after January 1, 2012:

(a) A competitive supplier that is an incumbent local exchange carrier may exercise flexibility in the rates, pricing, terms and conditions of basic network service in the same manner permitted for other telecommunication service pursuant to section 23 of this act; and

(b) The Commission shall not:

(1) Regulate the rates, pricing, terms and conditions of basic network service provided by such a competitive supplier; or

(2) Require such a competitive supplier to maintain any schedule or tariff for basic network service.

4. A competitive supplier that is an incumbent local exchange carrier must provide reasonably detailed information concerning the rates, pricing, terms and conditions of basic network service in the manner required by section 24 of this act.

Sec. 26. *1.* ~~*[The Commission may not deregulate]*~~ *A competitive supplier shall provide access to emergency 911 service* ~~*[provided by a competitive supplier.]*~~ *and shall not discontinue such access.*

2. The Commission may, upon its own motion or the petition of any person, deregulate intrastate switched or special access service provided by a competitive supplier. Unless the Commission deregulates such access service pursuant to this subsection, the rates, pricing, terms and conditions of such access service are subject to tariff regulation by the Commission.

3. If the Commission receives a petition pursuant to subsection 2, the Commission shall act upon the petition not later than 120 days after the date the Commission receives the petition.

Sec. 27. *1. A competitive supplier that is a provider of last resort may use an alternative technology to satisfy the obligation to provide basic network service or business line service in a service territory.*

2. Except as otherwise provided in this section, the Commission may not exercise jurisdiction over an alternative technology used by a competitive supplier that is a provider of last resort to satisfy the obligation to provide basic network service or business line service in a service territory, including, without limitation, determining the rates, pricing, terms, conditions or availability of an alternative technology.

3. If a competitive supplier that is a provider of last resort uses an alternative technology to satisfy the obligation to provide basic network service or business line service in a service territory, the Commission may investigate whether basic network service or business line service provided through the alternative technology by the competitive supplier is functionally comparable with circuit-switched wireline telephony.

4. If, after notice and hearing, the Commission finds any material deficiency in the competitive supplier's use of the alternative technology to satisfy the obligation to provide basic network service or business line service, the Commission may order the competitive supplier to implement corrective action, within a technically reasonable period, to cure the material deficiency in the use of the alternative technology.

5. As used in this section, "alternative technology" means any technology, facility or equipment, other than circuit-switched wireline telephony, that has the capability to provide customers with service functionally comparable to basic network service or business line service. The term includes, without limitation, wireless or Internet technology, facilities or equipment.

Sec. 28. *If a competitive supplier charges a customer a fixed price or amount for a package of services, the competitive supplier, in any bill or statement for the package of services, is permitted to specify only the fixed price or amount for the package of services and is not required to:*

1. Identify each separate service or component included in the package of services; or

2. Specify the unit price or amount charged for each separate service or component included in the package of services.

Sec. 29. *1. A competitive supplier that is not a provider of last resort may discontinue any telecommunication service by providing written notice, not less than 10 days before the date of the discontinuation, to any customer of that service and the Commission.*

2. A competitive supplier that is a provider of last resort may:

(a) Discontinue any telecommunication service, except basic network service, by providing written notice, not less than 10 days before the date of the discontinuation, to any customer of that service and the Commission.

(b) Apply to the Commission to discontinue basic network service to all or a portion of the service territory of the competitive supplier on terms that are in the public interest.

Sec. 30. *In exercising flexibility in the rates, pricing, terms and conditions of any telecommunication service, a competitive supplier that is an incumbent local exchange carrier shall not engage in any anticompetitive act or practice or unlawfully discriminate among similarly situated customers.*

Sec. 31. NRS 704.001 is hereby amended to read as follows:

704.001 It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

1. To confer upon the Commission the power, and to make it the duty of the Commission, to regulate public utilities to the extent of its jurisdiction;

2. To provide for fair and impartial regulation of public utilities;

3. To provide for the safe, economic, efficient, prudent and reliable operation and service of public utilities; ~~[and]~~

4. To balance the interests of customers and shareholders of public utilities by providing public utilities with the opportunity to earn a fair return on their investments while providing customers with just and reasonable rates ~~[.]~~ *; and*

5. With regard to telecommunication service:

(a) To regulate competitive suppliers in a manner that allows customers to benefit from full competition regarding rates and services;

(b) To provide for basic network service to economically disadvantaged persons who are eligible for a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive; and

(c) To maintain the availability of telephone service to rural, insular and high-cost areas through:

(1) The levy and collection of a uniform and equitable assessment from all persons furnishing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology; and

(2) Payments to telecommunication providers from the fund to maintain the availability of telephone service.

Sec. 32. NRS 704.005 is hereby amended to read as follows:

704.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 704.007 to 704.030, inclusive, *and sections 2 to 13, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 33. NRS 704.020 is hereby amended to read as follows:

704.020 1. "Public utility" or "utility" includes:

(a) Any person who owns, operates, manages or controls any railroad or part of a railroad as a common carrier in this State, or cars or other equipment used thereon, or bridges, terminals, or sidetracks, or any docks or wharves or storage elevators used in connection therewith, whether or not they are owned by the railroad.

(b) Any ~~[telephone company]~~ *person, other than a provider of commercial mobile radio service,* that provides a telecommunication service to the public, but only with regard to those operations ~~[of the telephone company]~~ which consist of providing a telecommunication service to the public.

(c) *Any provider of commercial mobile radio service, but such providers:*

(1) Must be regulated in a manner consistent with federal law; and

(2) Must not be regulated as telecommunication providers for the purposes of this chapter.

(d) Any radio or broadcasting company or instrumentality that provides a common or contract service.

~~[(d)]~~ *(e)* Any company that owns cars of any kind or character, used and operated as a part of railroad trains, in or through this State. All duties required of and penalties imposed upon any railroad or any officer or agent thereof are, insofar as applicable, required of and imposed upon ~~[the owner or operator of any telephone company that provides a telecommunication service to the public, any radio or broadcasting company or instrumentality that provides a common or contract service]~~ *any public utility* and any *other* company that owns cars of any kind or character, used and operated as a part of railroad trains in or through this State, and their officers and agents, and the Commission may supervise and control all such companies, instrumentalities and persons to the same extent as railroads.

2. "Public utility" or "utility" also includes:

(a) Any person who owns, operates or controls any ditch, flume, tunnel or tunnel and drainage system, charging rates, fares or tolls, directly or indirectly.

(b) Any plant or equipment, or any part of a plant or equipment, within this State for the production, delivery or furnishing for or to other persons, including private or municipal corporations, heat, gas, coal slurry, light, power in any form or by any agency, water for business, manufacturing, agricultural or household use, or sewerage service, whether or not within the limits of municipalities.

(c) Any system for the distribution of liquefied petroleum gas to 10 or more users.

➥ The Commission may supervise, regulate and control all such utilities, subject to the provisions of this chapter and to the exclusion of the jurisdiction, regulation and control of such utilities by any municipality, town or village, unless otherwise provided by law.

3. The provisions of this chapter and the term "public utility" apply to all railroads, express companies, car companies and all associations of persons,

whether or not incorporated, that do any business as a common carrier upon or over any line of railroad within this State.

Sec. 34. NRS 704.033 is hereby amended to read as follows:

704.033 1. Except as otherwise provided in subsection 6, the Commission shall levy and collect an annual assessment from all public utilities, providers of discretionary natural gas service and alternative sellers subject to the jurisdiction of the Commission.

2. Except as otherwise provided in subsections 3 and 4, the annual assessment must be:

(a) For the use of the Commission, not more than 3.50 mills; and

(b) For the use of the Consumer's Advocate, not more than 0.75 mills,

➥ on each dollar of gross operating revenue derived from the intrastate operations of such utilities, providers of discretionary natural gas service and alternative sellers in the State of Nevada. The total annual assessment must be not more than 4.25 mills.

3. The levy for the use of the Consumer's Advocate must not be assessed against railroads.

4. The minimum assessment in any 1 year must be $100.

5. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:

(a) ~~[Telephone utilities,]~~ *Telecommunication providers*, except as provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues.

(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.

(c) All public utilities, providers of discretionary natural gas service and alternative sellers, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility, provider of discretionary natural gas service or alternative seller for resale.

6. Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee of $200.

Sec. 35. NRS 704.040 is hereby amended to read as follows:

704.040 1. Every public utility shall furnish reasonably adequate service and facilities . ~~[, and]~~ *Subject to the provisions of subsection 3,* the charges made for any service rendered or to be rendered, or for any service in connection therewith or incidental thereto, must be just and reasonable.

2. Every unjust and unreasonable charge for service of a public utility is unlawful.

~~[3. The Commission may exempt, to the extent it deems reasonable, services related to telecommunication or public utilities which provide telecommunication services from any or all of the provisions of this chapter, upon a determination after hearing that the services are competitive or discretionary and that regulation thereof is unnecessary. For the purposes of~~

~~this subsection, basic local exchange service and access services provided to interexchange carriers are not discretionary.~~

~~4. The Commission shall adopt regulations necessary to establish a plan of alternative regulation for a public utility that provides telecommunication services. The plan of alternative regulation may include, but is not limited to, provisions that:~~

~~(a) Allow adjustment of the rates charged by a public utility that provides telecommunication services during the period in which the utility elects the plan of alternative regulation.~~

~~(b) Provide for flexibility of pricing for discretionary services and services that are competitive.~~

~~(c) Specify the provisions of this chapter, NRS 426.295 and chapter 707 of NRS that do not apply to a public utility that elects to be regulated under the plan of alternative regulation.~~

~~(d) Except as otherwise provided in this paragraph and NRS 704.68952, if the public utility is an incumbent local exchange carrier, allow the incumbent local exchange carrier to select the duration of the period in which the incumbent local exchange carrier is to be regulated under the plan of alternative regulation. The incumbent local exchange carrier may not select a period that is less than 3 years or more than 5 years. The provisions of this paragraph do not apply to a plan of alternative regulation of an incumbent local exchange carrier regulated under a plan of alternative regulation that was approved by the Commission before June 11, 2003.~~

~~5. A public utility that elects to be regulated under a plan of alternative regulation established pursuant to subsection 4 is not subject to the remaining~~]

3. Except as otherwise provided in sections 18 to 30, inclusive, of this act:

(a) A competitive supplier is exempt from any provision of this chapter governing the rates, prices, terms and conditions of any telecommunication service.

(b) A small-scale provider of last resort is subject to the provisions of this chapter, NRS 426.295 [~~or~~] *and* chapter 707 of NRS . [~~to the extent specified pursuant to paragraph (c) of subsection 4.~~

~~6.~~] *4.* All *telecommunication* providers [~~of telecommunication services~~] which offer the same or similar service must be subject to fair and impartial regulation, to promote adequate, economical and efficient service.

[~~7. The Commission may~~]

5. To maintain the availability of telephone service in accordance with the regulations adopted pursuant to NRS 704.6873, the Commission shall provide for the levy and collection of [~~an~~] *a uniform and equitable* assessment, in an amount determined by the Commission, from [~~a public utility that provides telecommunication services in order to maintain the availability of telephone service.~~] *all persons furnishing intrastate telecommunication service or the functional equivalent of such service*

through any form of telephony technology, unless the levy and collection of the assessment with regard to a particular form of technology is prohibited by federal law. Assessments levied *and collected* pursuant to this subsection must be maintained in a separate fund established by the Commission. The Commission shall contract with an independent administrator to administer the fund pursuant to open competitive bidding procedures established by the Commission. The independent administrator shall collect the assessments levied and distribute them from the fund pursuant to a plan which has been approved by the Commission. Money in the fund must be used for the sole purpose of maintaining the availability of telephone service.

~~[8. As used in this section:~~

~~(a) "Incumbent local exchange carrier" has the meaning ascribed to it in NRS 704.68932.~~

~~(b) "Interexchange carrier" means any person providing intrastate telecommunications service for a fee between two or more exchanges.]~~

Sec. 36. NRS 704.070 is hereby amended to read as follows:

704.070 ~~[Unless exempt under the provisions of]~~ *Except as otherwise provided in* NRS 704.075, 704.095 or 704.097 ~~[:]~~ *and sections 18 to 30, inclusive, of this act:*

1. Each public utility shall file with the Commission, within a time to be fixed by the Commission, a copy of all schedules that are currently in force for the public utility. Such schedules must be open to public inspection.

2. A copy of each schedule that is currently in force for the public utility, or so much of the schedule as the Commission deems necessary for inspection by the public, must be:

(a) Printed in plain type and posted in each office of the public utility where payments are made to the public utility by its customers; and

(b) Open to inspection by the public and in such form and place as to be readily accessible to and conveniently inspected by the public.

Sec. 37. NRS 704.100 is hereby amended to read as follows:

704.100 Except as otherwise provided in NRS 704.075 and ~~[704.68904 to 704.68984,]~~ *sections 18 to 30,* inclusive, *of this act* or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 *:* ~~[or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:]~~

1. A public utility shall not make changes in any schedule, unless the public utility:

(a) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

(b) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of subsection 5.

2. A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110

based on changes in the public utility's recorded costs of natural gas purchased for resale.

3. A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

4. A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

5. Except as otherwise provided in subsection 6, if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed $2,500:

(a) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

(b) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

6. If the applicant is a ~~[public utility furnishing telephone service]~~ *small-scale provider of last resort* and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

7. In making the determination pursuant to subsection 5 or 6, the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

Sec. 38. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and ~~[704.68904 to 704.68984,]~~ *sections 18 to 30,* inclusive, *of this act* or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 *:* ~~[or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:]~~

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate

application or an application to clear its deferred accounts, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in ~~[subsections 3 and 13,]~~ *subsection 3,* if a public utility files with the Commission an application to make changes in any schedule, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes ~~[:~~

~~(a) For a public utility that is a PAR carrier, not later than 180 days after the date on which the application is filed; and~~

~~(b) For all other public utilities,]~~ not later than 210 days after the date on which the application is filed.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. An electric utility shall file a general rate application pursuant to this subsection at least once every 24 months based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application on or before October 3, 2005, and at least once every 24 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application on or before November 15, 2006, and at least once every 24 months thereafter.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility which purchases natural gas for resale may

submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7 or an application to clear its deferred accounts pursuant to subsection 9, if the public utility is otherwise authorized by those provisions to file such an application.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility using deferred accounting pursuant to NRS 704.187; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between

annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public

utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. Except as otherwise provided in subsection 10 and subsection 5 of NRS 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:

(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the Commission.

(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility.

10. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 9, the Commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this State for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The Commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.

11. If an electric utility files an application to clear its deferred accounts pursuant to subsection 9 while a general rate application is pending, the electric utility shall:

(a) Submit with its application to clear its deferred accounts information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

12. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

13. ~~[A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed~~

~~with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.~~

~~14.]~~ As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" has the meaning ascribed to it in NRS 704.187.

(c) "Electric utility that primarily serves less densely populated counties" has the meaning ascribed to it in NRS 704.187.

~~[(d) "PAR carrier" has the meaning ascribed to it in NRS 704.68942.]~~

Sec. 39. NRS 704.120 is hereby amended to read as follows:

704.120 1. If, upon any hearing and after due investigation, the rates, tolls, charges, schedules or joint rates shall be found to be unjust, unreasonable or unjustly discriminatory, or to be preferential, or otherwise in violation of any of the provisions of this chapter, the Commission shall have the power to fix and order substituted therefor such rate or rates, tolls, charges or schedules as shall be just and reasonable.

2. If it shall in like manner be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of the provisions of this chapter, or if it be found that the service is inadequate, or that any reasonable service cannot be obtained, the Commission shall have the power to substitute therefor such other regulations, measurements, practices, service or acts and make such order relating thereto as may be just and reasonable.

3. When complaint is made of more than one rate, charge or practice, the Commission may, in its discretion, order separate hearings upon the several matters complained of and at such times and places as it may prescribe.

4. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

5. The Commission may at any time, upon its own motion, investigate any of the rates, tolls, charges, rules, regulations, practices and service, and, after a full hearing as above provided, by order, make such changes as may be just and reasonable, the same as if a formal complaint had been made.

6. The provisions of this section do not apply to a competitive supplier, except that a competitive supplier that is an incumbent local exchange carrier is subject to the provisions of this section with regard to:

(a) The provision of basic network service until January 1, 2012; and

(b) Any general rate application filed by the competitive supplier pursuant to paragraph (b) of subsection 2 of section 25 of this act. If the competitive supplier files such a general rate application, the general rate case proceeding must be conducted by the Commission in accordance with this section and NRS 704.110.

Sec. 40. NRS 704.175 is hereby amended to read as follows:

704.175 1. Except as provided in subsection 2, any public utility which installs or modifies any electrical supply line in any building or facility which it owns or operates, if the building or facility is open and accessible to the general public, shall perform such installation or modification as if the National Electrical Code adopted by the National Fire Protection Association applied to such work, and any local government which regulates electrical construction shall inspect such work within its jurisdiction for compliance with this section.

2. Communication equipment and related apparatus are exempted from the provisions of subsection 1 only if the equipment and apparatus ~~[is]~~ *are* owned, installed, operated and maintained by a ~~[public utility which provides communication services]~~ *telecommunication provider* under the jurisdiction of the Commission.

Sec. 41. NRS 704.210 is hereby amended to read as follows:

704.210 ~~[The]~~

1. Except as otherwise provided in subsection 2, the Commission may:

~~[1.]~~ *(a)* Adopt necessary and reasonable regulations governing the procedure, administration and enforcement of the provisions of this chapter, subject to the provisions of NRS 416.060.

~~[2.]~~ *(b)* Prescribe classifications of the service of all public utilities and, except as otherwise provided in NRS 704.075, fix and regulate the rates therefor.

~~[3.]~~ *(c)* Fix just and reasonable charges for transportation of all intrastate freight and passengers and the rates and tolls for the use of telephone lines within the State.

~~[4.]~~ *(d)* Adopt just and reasonable regulations for the apportionment of all joint rates and charges between public utilities.

~~[5.]~~ *(e)* Consider the need for the conservation of energy when acting pursuant to the provisions of ~~[subsections 1, 2 and 3.]~~ *this subsection.*

2. The provisions of subsection 1 do not apply to a competitive supplier.

Sec. 42. NRS 704.215 is hereby amended to read as follows:

704.215 ~~[The]~~

1. Subject to the provisions of this chapter, the Commission may adopt by reference all or part of any appropriate:

~~[1.]~~ *(a)* Rule, regulation or rate ~~[related to telecommunications services]~~ *schedule relating to telecommunication service* issued by an agency of the Federal Government or of any state.

~~[2.]~~ *(b)* Regulation proposed by the National Association of Regulatory Utility Commissioners or code issued by a national or state professional society.

~~[➥]~~

2. A copy of each such rule, regulation, rate schedule ~~[related to telecommunications services]~~ or code ~~[so]~~ adopted *by the Commission pursuant to this section* must be included with the regulations filed with the Secretary of State.

Sec. 43. NRS 704.328 is hereby amended to read as follows:

704.328 The provisions of NRS 704.322 to 704.326, inclusive, ~~[shall]~~ *do* not apply to ~~[any]~~ *:*

1. *A* public utility engaged in:

~~[1.]~~ *(a)* Interstate commerce if 25 percent or more of the operating revenues of such public utility are derived from interstate commerce.

~~[2.]~~ *(b)* The business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if the utility:

~~[(a)]~~ *(1)* Serves 15 persons or less; and

~~[(b)]~~ *(2)* Operates in a county whose population is 400,000 or more.

2. A competitive supplier.

Sec. 44. (Deleted by amendment.)

Sec. 45. NRS 704.330 is hereby amended to read as follows:

704.330 1. ~~[Every public utility]~~ *Except as otherwise provided in this section, any person* owning, controlling, operating or maintaining or having any contemplation of owning, controlling or operating any public utility shall, before beginning such operation or continuing operations or construction of any line, plant or system or any extension of a line, plant or system within this State, obtain from the Commission a certificate that the present or future public convenience or necessity requires or will require such continued operation or commencement of operations or construction.

2. ~~[Nothing in]~~ *The provisions of* this section ~~[requires]~~ *do not require* a public utility to secure such a certificate for any extension within any town or city within which it lawfully *has* commenced operations or for any other extension ~~[as long as]~~ *if* the extension:

(a) Is *undertaken by a small-scale provider of last resort* to serve a telephone toll station or stations to be located not more than 10 miles from existing telephone facilities; ~~[or]~~

(b) *Is undertaken for any purpose by a competitive supplier; or*

(c) Remains within the boundaries of the service area which have been established by the Commission for its railroad, line, plant or system, and not then served by a public utility of like character.

3. Upon the granting of any certificate of public convenience, the Commission may make such an order and prescribe such terms and conditions for the location of lines, plants or systems to be constructed, extended or affected as may be just and reasonable.

4. When a complaint has been filed with the Commission alleging that any utility is being operated without a certificate of public convenience and necessity as required by this section, or when the Commission has reason to believe that any provision of this section is being violated, the Commission shall investigate such operations and the Commission may, after a hearing, make its order requiring the owner or operator of the utility to cease and desist from any operation in violation of this section. The Commission shall enforce compliance with such an order under the powers vested in the Commission by law.

5. If any public utility in constructing or extending its line, plant or system interferes or is about to interfere with the operation of the line, plant or system of any other public utility already constructed, the Commission, on complaint of the public utility claiming to be injuriously affected, after hearing, may make such an order prohibiting the construction or extension, or prescribing such terms and conditions for the location of the lines, plants or systems affected, as to it may seem just and reasonable.

6. Except as *otherwise* provided in ~~[subsection 7, whenever]~~ *subsections 7 and 8, if* the Commission, after a hearing upon its own motion or upon complaint, finds that there is or will be a duplication of service by public utilities in any area, the Commission shall either issue a certificate of public convenience and necessity assigning specific territories to one or to each of such utilities, or, by certificate of public convenience and necessity, otherwise define the conditions of rendering service and construction, extensions within such territories, and shall order the elimination of such duplication, all upon such terms as are just and reasonable, having due regard to due process of law and to all the rights of the respective parties and to public convenience and necessity.

7. The Commission may allow *and regulate* a duplication of service by ~~[public utilities]~~ *telecommunication providers* in an area ~~[if:~~

~~(a) The service provided is related to telecommunication; and~~

~~(b) It]~~ *where the provider of last resort is a small-scale provider of last resort if the Commission* finds that the competition should occur and that any duplication of service is reasonable.

8. The Commission:

(a) Shall allow a duplication of service or facilities by telecommunication providers in an area where the provider of last resort is a competitive supplier; and

(b) On or after January 1, 2012, shall not regulate a duplication of service or facilities by telecommunication providers in an area where the provider of last resort is a competitive supplier.

9. A competitive supplier that is a provider of last resort:

(a) Must provide to the Commission a description of and map depicting the boundaries of the service area in which the Commission has designated the competitive supplier as the provider of last resort; and

(b) May change the boundaries of that service area by filing an application with the Commission. The application shall be deemed approved if the Commission does not act on the application within 120 days after the date the application is filed with the Commission.

Sec. 46. NRS 704.380 is hereby amended to read as follows:

704.380 ~~[No]~~ *1. Except as otherwise provided in subsection 2, any* public utility beginning, prosecuting or completing any new construction in violation of this chapter ~~[shall be]~~ *is not* permitted to levy any tolls or charges for services rendered, and all such tolls and charges ~~[shall be]~~ *are* void.

2. The provisions of subsection 1 do not apply to a competitive supplier that is operating in accordance with the provisions of this chapter governing telecommunication providers.

Sec. 47. NRS 704.390 is hereby amended to read as follows:

704.390 1. ~~[It]~~ *Except as otherwise provided in sections 18 to 30, inclusive, of this act, it* is unlawful for any public utility to discontinue, modify or restrict service to any city, town, municipality, community or territory theretofore serviced by it, except upon 30 days' notice filed with the Commission, specifying in detail the character and nature of the discontinuance or restriction of the service intended, and upon order of the Commission, made after hearing, permitting such discontinuance, modification or restriction of service.

2. Except as otherwise provided in subsection 3, the Commission, in its discretion and after investigation, may dispense with the hearing on the application for discontinuance, modification or restriction of service if, upon the expiration of the time fixed in the notice thereof, no protest against the granting of the application has been filed by or on behalf of any interested person.

3. The Commission shall not dispense with the hearing on the application of an electric utility.

Sec. 48. NRS 704.410 is hereby amended to read as follows:

704.410 1. Any public utility subject to the provisions of NRS 704.001 to 704.7595, inclusive, to which a certificate of public convenience and necessity has been issued pursuant to NRS 704.001 to 704.7595, inclusive, may transfer the certificate to any person qualified under NRS 704.001 to 704.7595, inclusive. Such a transfer is void and unenforceable and is not valid for any purpose unless:

(a) A joint application to make the transfer has been made to the Commission by the transferor and the transferee ~~[;]~~ *or the transfer is incident to a transaction that is subject to an application under NRS 704.329 approved by the Commission;* and

(b) The Commission has authorized the substitution of the transferee for the transferor. If the transferor is an electric utility, the Commission shall not authorize the transfer unless the transfer complies with the provisions of NRS 704.7561 to 704.7595, inclusive.

2. The Commission:

(a) Shall conduct a hearing on a transfer involving an electric utility. The hearing must be noticed and conducted in the same manner as other contested hearings before the Commission.

(b) May direct that a hearing be conducted on a transfer involving any other public utility. If the Commission determines that such a hearing should be held, the hearing must be noticed and conducted in the same manner as other contested hearings before the Commission. The Commission may dispense with such a hearing if, upon the expiration of the time fixed in the

notice thereof, no protest to the proposed transfer has been filed by or on behalf of any interested person.

3. In determining whether the transfer of a certificate of public convenience and necessity to an applicant transferee should be authorized, the Commission must take into consideration:

(a) The utility service performed by the transferor and the proposed utility service of the transferee;

(b) Other authorized utility services in the territory for which the transfer is sought;

(c) Whether the transferee is fit, willing and able to perform the services of a public utility and whether the proposed operation will be consistent with the legislative policies set forth in NRS 704.001 to 704.7595, inclusive; and

(d) Whether the transfer will be in the public interest.

4. The Commission may make such amendments, restrictions or modifications in a certificate upon transferring it as the public interest requires.

5. No transfer is valid beyond the life of the certificate transferred.

Sec. 49. NRS 704.440 is hereby amended to read as follows:

704.440 1. ~~[The]~~ *Except as otherwise provided in subsection 2, the* Commission may, in its discretion, investigate and ascertain the value of all property of every public utility actually used and useful for the convenience of the public.

~~[2.]~~ In making such *an* investigation , the Commission may avail itself of all information contained in the assessment rolls of the various counties and the public records and files of all state departments, offices and commissions, and any other information obtainable.

2. The provisions of subsection 1 do not apply to a competitive supplier.

Sec. 50. NRS 704.684 is hereby amended to read as follows:

704.684 1. Except as otherwise provided in ~~[subsection 2 and NRS 704.68984,]~~ *this section,* the Commission shall not regulate any broadband service, including imposing any requirements relating to the terms, conditions, rates or availability of broadband service.

2. The provisions of subsection 1 do not limit or modify the authority of the Commission to:

(a) Consider any revenues, costs and expenses that a ~~[public utility]~~ *small-scale provider of last resort* derives from providing a broadband service, if the Commission is determining the rates of the ~~[public utility]~~ *provider* under a general rate application that is filed pursuant to subsection 3 of NRS 704.110;

(b) Act on a complaint filed pursuant to NRS 703.310, if the complaint relates to a broadband service that is provided by a public utility;

(c) Include any appropriate gross operating revenue that a public utility derives from providing broadband service when the Commission calculates the gross operating revenue of the public utility for the purposes of levying

and collecting the annual assessment in accordance with the provisions of NRS 704.033; or

(d) Determine the rates, *pricing,* terms and conditions of intrastate *switched or* special access services ~~[.]~~ ~~*[service]*~~ *provided by a telecommunication provider.*

3. *The provisions of subsection 1 do not:*

(a) Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or

(b) Limit or modify:

(1) The duties of a telecommunication provider regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or

(2) The authority of the Commission to act pursuant to NRS 704.6881 and 704.6882.

4. As used in this section ~~[:~~

~~(a) "Affiliate of an incumbent local exchange carrier" has the meaning ascribed to it in NRS 704.6891.~~

~~(b) "Broadband]~~ , *"broadband* service" means any two-way service that transmits information at a rate that is generally not less than 200 kilobits per second in at least one direction.

~~[(c) "Incumbent local exchange carrier" has the meaning ascribed to it in NRS 704.68932.]~~

Sec. 51. NRS 704.6873 is hereby amended to read as follows:

704.6873 1. The Commission shall adopt regulations that require each ~~[utility which provides telecommunication services]~~ *telecommunication provider furnishing service* to:

(a) An elementary or secondary public school; or

(b) A public library,

➥ to establish discounts in the rates for the telecommunication services that the ~~[utility provides]~~ *provider furnishes* to that school or library. The amount of the discount must be determined by the Commission in a manner that is consistent with the provisions of 47 U.S.C. § 254.

2. The Commission shall adopt regulations that require each ~~[utility which provides telecommunication services]~~ *telecommunication provider furnishing service* to:

(a) Public or private nonprofit providers of health care which serve persons in rural areas; or

(b) Persons with low income and persons in rural, insular and high-cost areas,

➥ to ensure that such providers of health care and persons have access to telecommunication services that are reasonably comparable to those services available in urban areas and that the rates for such services charged by the ~~[utility]~~ *telecommunication provider* are reasonably comparable to those

charged in the urban areas, to the extent required by the provisions of 47 U.S.C. § 254.

3. The Commission shall adopt regulations which set forth the requirements for eligibility for ~~[persons]~~ *:*

(a) Persons with low income ~~[and definitions for]~~ *to receive a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive. The regulations adopted pursuant to this paragraph must provide that if a person is a customer of:*

(1) A competitive supplier that is an incumbent local exchange carrier, the person is eligible to receive a reduction in rates if the person's household has a total household gross income not exceeding 175 percent of the federally established poverty level for a household with the same number of persons; and

(2) Any other competitive supplier or a small-scale provider of last resort, the person is eligible to receive a reduction in rates if the person's household has a total household gross income not exceeding 150 percent of the federally established poverty level for a household with the same number of persons.

(b) Small-scale providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.

(c) Competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.

4. Any regulations adopted pursuant to this section *and NRS 704.040 regarding the availability of telephone service* must ~~[be]~~ *:*

(a) Be consistent with the *applicable* provisions of 47 U.S.C. § 254 ~~[.]~~ *;*

(b) Define rural, insular and high-cost areas;

(c) Establish nondiscriminatory eligibility requirements for all small-scale providers of last resort that apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas; and

(d) Allow competitive suppliers which are providers of last resort and which meet the eligibility requirements established by the Commission to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.

Sec. 52. NRS 704.6875 is hereby amended to read as follows:

704.6875 1. Except as otherwise provided in subsection 2, each ~~[public utility which provides telecommunication services]~~ *telecommunication provider* shall provide timely written notice to a customer of the duration of each call that is billed to the customer, reported in minutes, seconds or any fraction thereof, if the charges for the telecommunication services are calculated, in whole or in part, on the basis of the duration of the call.

2. The provisions of this section do not apply to measured rate service . ~~[that is regulated by the Commission.]~~

Sec. 53. NRS 704.6881 is hereby amended to read as follows:

704.6881 The Commission shall, by regulation:

1. Establish standards of performance and reporting regarding the provision of interconnection, unbundled network elements and resold services, which encourage competition and discourage discriminatory conduct in the provision of local telecommunication services; and

2. Notwithstanding the provisions of NRS 703.320 to the contrary, establish penalties and expedited procedures for imposing penalties upon a *telecommunication* provider ~~[of telecommunication services]~~ for actions that are inconsistent with the standards established by the Commission pursuant to subsection 1. Such penalties may include financial payment to the complaining *telecommunication* provider ~~[of telecommunication services]~~ for a violation of the standards established by the Commission pursuant to subsection 1, provided that any penalty paid must be deducted, with interest, from any other award under any other judicial or administrative procedure for the same conduct in the same reporting period. Any penalty imposed pursuant to this subsection is in lieu of the civil penalties set forth in NRS 703.380 and must be:

(a) Imposed for violating a standard or standards established by regulations of the Commission pursuant to subsection 1;

(b) Determined by the Commission to further the goal of encouraging competition or discouraging discriminatory conduct; and

(c) In an amount reasonable to encourage competition or discourage discriminatory conduct.

Sec. 54. NRS 704.6882 is hereby amended to read as follows:

704.6882 Notwithstanding the provisions of NRS 703.310 and 703.320, the Commission shall establish by regulation expedited procedures for complaints filed by a *telecommunication* provider ~~[of telecommunication services]~~ against another *telecommunication* provider ~~[of telecommunication services]~~ for any dispute arising under this chapter *, including, without limitation, a dispute arising under the standards set forth in section 30 of this act,* or *arising under* chapter 703 of NRS. ~~[, including]~~ *The regulations may include, without limitation,* specific procedures for interim relief that may include a preliminary decision by a single Commissioner except as to the imposition of monetary penalties.

Sec. 55. NRS 704.6884 is hereby amended to read as follows:

704.6884 The provisions of NRS 704.6881 to 704.6884, inclusive, must not be construed to exempt *telecommunication* providers ~~[of telecommunication services]~~ from any other applicable statute of this State or the United States relating to consumer and antitrust protections. The exemption provided in paragraph (c) of subsection 3 of NRS 598A.040 does not apply to conduct of, or actions taken by, a *telecommunication* provider ~~[of telecommunication services]~~ in violation of the standards established pursuant to subsection 1 of NRS 704.6881.

Sec. 56. Chapter 707 of NRS is hereby amended by adding thereto the provisions set forth as sections 57 to 60, inclusive, of this act.

Sec. 57. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 58, 59 and 60 of this act have the meanings ascribed to them in those sections.*

Sec. 58. *"Basic network service" has the meaning ascribed to it in section 2 of this act.*

Sec. 59. *"Telecommunication provider" or "telephone company" has the meaning ascribed to it in section 12 of this act.*

Sec. 60. *"Telecommunication service" or "telephone service" has the meaning ascribed to it in section 13 of this act.*

Sec. 61. NRS 707.440 is hereby amended to read as follows:

707.440 "Eligible provider" means a *telecommunication* provider ~~[of telecommunication services]~~ that has been designated as an eligible telecommunications carrier by the Commission to receive universal service support pursuant to 47 U.S.C. § 214, as that section existed on January 1, 1999.

Sec. 62. NRS 707.490 is hereby amended to read as follows:

707.490 1. The reduction in the telephone rates provided by lifeline or link up services must be based on the methods for determining reductions which are adopted by the Commission by regulation. The Commission may provide different methods for determining reductions to allow for differences between eligible providers. The methods may include, without limitation:

(a) Basing the reduction on the tariff filed by the eligible provider with the Commission; or

(b) Establishing a formula pursuant to which the amount of the reduction may be determined.

2. The reduction in such telephone rates applies only to:

(a) ~~[Residential flat rate basic local exchange service;~~

~~(b) Residential local exchange access service;~~

~~(c) Residential local calling area service; and~~

~~(d)]~~ *Basic network service; and*

(b) Residential service connection charges ~~[.]~~ *for such basic network service.*

3. ~~[The reduced rate for residential local exchange access service, when combined with the reduced rate for residential local calling area service, must not exceed the comparable reduced rate for residential flat rate basic local exchange service.~~

~~4.]~~ If the amount of the reduction in rates provided by an eligible provider to an eligible customer for lifeline services is greater than the amount which the eligible provider receives as universal service support pursuant to 47 U.S.C. § 254, the eligible provider is entitled to reimbursement from the fund *to maintain the availability of telephone service* established by the Commission pursuant to NRS 704.040 for the difference

between the amount of the reduction and the amount received as universal service support pursuant to 47 U.S.C. § 254.

Sec. 63. NRS 709.050 is hereby amended to read as follows:

709.050 1. The board of county commissioners may grant to any person, company, corporation or association the franchise, right and privilege to construct, install, operate and maintain street railways, electric light, heat and power lines, gas and water mains, telephone and telegraph lines, and all necessary or proper appliances used in connection therewith or appurtenant thereto, in the streets, alleys, avenues and other places in any unincorporated town in the county, and along the public roads and highways of the county, when the applicant complies with the terms and provisions of NRS 709.050 to 709.170, inclusive.

2. The board of county commissioners shall not:

(a) Impose any terms or conditions on a franchise granted pursuant to subsection 1 for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~[telecommunications]~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

3. As used in NRS 709.050 to 709.170, inclusive:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.]~~ *January ,1, 2007.*

(b) "Street railway" means:

(1) A system of public transportation operating over fixed rails on the surface of the ground; or

(2) An overhead or underground system, other than a monorail, used for public transportation.

➥ The term does not include a super speed ground transportation system as defined in NRS 705.4292.

(c) ~~[~~"Telecommunications~~]~~ *"Telecommunication* service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

4. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 64. NRS 709.130 is hereby amended to read as follows:

709.130 1. Every person, company, corporation or association receiving a franchise pursuant to the provisions of NRS 709.050 to 709.170, inclusive, shall:

(a) Provide a plant with all necessary appurtenances of approved construction for the full performance of his franchise duties, rights and

obligations, and for the needs, comfort and convenience of the inhabitants of the various unincorporated towns and cities, county or place to which his franchise relates.

(b) Keep the plants and appurtenances, including all tracks, cars, poles, wires, pipes, mains and other attachments, in good repair, so as not to interfere with the passage of persons or vehicles, or the safety of persons or property.

2. Except as otherwise provided in this subsection, the board of county commissioners may when granting such franchise, fix and direct the location of all tracks, poles, wires, mains, pipes and other appurtenances upon the public streets, alleys, avenues and highways as best to serve the convenience of the public. The board may change the location of any appurtenances and permit, upon proper showing, all necessary extensions thereof when the interest or convenience of the public requires. The board shall not require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the county.

3. All poles, except poles from which trolley wires are suspended for streetcar lines, from which wires are suspended for electric railroads, power, light or heating purposes within the boundaries of unincorporated towns and over public highways must not be less than 30 feet in height, and the wires strung thereon must not be less than 25 feet above the ground.

4. Every person, company, association or corporation operating a telephone, telegraph or electric light, heat or power line, or any electric railway line, shall, with due diligence, provide itself, at its own expense, a competent electrician to cut, repair and replace wires in all cases where cutting or repairing or replacing is made necessary by the removal of buildings or other property through the public streets or highways.

5. No person, company, corporation or association may receive an exclusive franchise nor may any board of county commissioners grant a franchise in such manner or under such terms or conditions as to hinder or obstruct the granting of franchises to other grantees, or in such manner as to obstruct or impede reasonable competition in any business or public service to which NRS 709.050 to 709.170, inclusive, apply.

Sec. 65. NRS 710.140 is hereby amended to read as follows:

710.140 1. The control, management and conduct of any telephone line or system purchased, acquired or constructed by any county must be exercised by the board of county commissioners of such county.

2. The board of county commissioners has the right to employ such persons as may be necessary to carry on the business of the county telephone line or system.

3. The board of county commissioners shall comply with chapter 332 of NRS in letting contracts for the use and benefit of the county telephone line or system.

4. If the Public Utilities Commission of Nevada has provided for the levy and collection of an assessment pursuant to ~~[subsection 7 of]~~ NRS 704.040 for ~~[a]~~ *the* fund to maintain the availability of telephone service, the county telephone line or system is subject to the levy and collection of the assessment and is entitled to receive money from the fund under the same terms and conditions as a ~~[public utility that is subject to subsection 7 of NRS 704.040.]~~ *telecommunication provider regulated pursuant to chapter 704 of NRS.*

5. In carrying on the business of the county telephone line or system, the board of county commissioners may create a separate corporation to provide communication services that are not within the scope of activities regulated pursuant to chapter 704 of NRS. The control and management of the separate corporation must be exercised by the board of county commissioners, and the separate corporation is subject to all applicable provisions of NRS 710.010 to 710.159, inclusive, to the same extent as the county telephone line or system.

6. If, after October 1, 2006, the county telephone line or system provides, outside the territorial boundaries of the county, any communication services that are not within the scope of activities regulated pursuant to chapter 704 of NRS, the county telephone line or system:

(a) With regard to the facilities and property it maintains outside the territorial boundaries of the county, shall comply with the same federal, state and local requirements that would apply to a privately held company providing the same communication services; and

(b) With regard to the provision of such services outside the territorial boundaries of the county:

(1) Shall comply with any regulations and rules of the Public Utilities Commission of Nevada that would apply to a privately held company providing the same communication services;

(2) Shall not use any money from the county general fund for the provision of such services; and

(3) Shall not engage in any transaction with an affiliated entity at prices and terms that are lower than or more favorable than the prices and terms that the county telephone line or system or the affiliated entity would offer to or charge an unaffiliated third party for such a transaction.

7. Nothing in this section requires a county telephone line or system to offer any services to or engage in any transaction with an affiliated entity or an unaffiliated third party.

8. Except as otherwise provided in subsections 4 and 6, nothing in this section vests jurisdiction over a county telephone line or system in the Public Utilities Commission of Nevada.

9. It is expressly provided that no general or other statute shall limit or restrict the conduct and carrying on of the business of a county telephone line or system by the board of county commissioners except as specifically set forth in this section and NRS 710.145.

10. As used in this section, "affiliated entity" means any entity that is owned, operated or controlled by the same county that owns, operates or controls the county telephone line or system.

Sec. 66. NRS 710.145 is hereby amended to read as follows:

710.145 1. Notwithstanding the provisions of any other statute, a county telephone line or system may extend its communication services outside the territorial boundaries of the county if:

(a) The services are not within the scope of activities regulated pursuant to chapter 704 of NRS and the county telephone line or system complies with the provisions of subsection 6 of NRS 710.140;

(b) The ~~[Public Utilities Commission of Nevada has, pursuant to subsection 3 of NRS 704.040, determined that the]~~ services are *extended into an area served by one or more* competitive ~~[or discretionary and that regulation thereof is unnecessary;]~~ *suppliers regulated pursuant to sections 18 to 30, inclusive, of this act;* or

(c) The Public Utilities Commission of Nevada has, in an action commenced under NRS 704.330 and after 20 days' notice to all telephone utilities providing service in the county into which the extension is to be made, determined that no other telephone service can reasonably serve the area into which the extension is to be made and approves the extension of the system. No such extension may be permitted for a distance of more than 10 miles.

2. If, after October 1, 2005, a county telephone line or system provides any communication services pursuant to paragraph (b) or (c) of subsection 1 outside the territorial boundaries of the county, the county telephone line or system shall:

(a) With regard to the facilities and property it maintains outside the territorial boundaries of the county, comply with the same federal, state and local requirements that would apply to a privately held company providing the same communication services; and

(b) With regard to the provision of such services outside the territorial boundaries of the county, comply with any regulations and rules of the Public Utilities Commission of Nevada that would apply to a privately held company providing the same communication services.

3. If a county telephone line or system and an affiliated entity engage in any transaction to provide communication services outside the territorial boundaries of the county, the Public Utilities Commission of Nevada has jurisdiction over such a transaction to the extent necessary to enforce this section and NRS 710.140.

4. Nothing in this section requires a county telephone line or system to offer any services to or engage in any transaction with an affiliated entity or an unaffiliated third party.

5. Except as otherwise provided in subsections 1, 2 and 3, nothing in this section vests jurisdiction over a county telephone line or system in the Public Utilities Commission of Nevada.

6. As used in this section, "affiliated entity" has the meaning ascribed to it in NRS 710.140.

Sec. 67. NRS 710.147 is hereby amended to read as follows:

710.147 1. The governing body of a county whose population is 50,000 or more:

(a) Shall not sell ~~[telecommunications]~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

2. Any information relating to the study conducted pursuant to subsection 1 must be maintained by the county clerk and made available for public inspection during the business hours of the office of the county clerk.

3. Notwithstanding the provisions of paragraph (a) of subsection 1, an airport may sell ~~[telecommunications]~~ *telecommunication* service to the general public.

4. As used in this section:

(a) ~~["Telecommunications"]~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(b) "Telecommunications]~~ *section 11 of this act.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 68. NRS 711.190 is hereby amended to read as follows:

711.190 1. Except as otherwise provided in NRS 318.1194:

(a) A city may grant a franchise to a community antenna television company for the construction, maintenance and operation of a community antenna television system which requires the use of city property or that portion of the city dedicated to public use for the maintenance of cables or wires underground, on the surface or on poles for the transmission of a television picture.

(b) A county may grant a franchise to a community antenna television company for the construction, maintenance and operation of a community antenna television system which requires the use of the property of the county or any town in the county or that portion of the county or town dedicated to public use for the maintenance of cables or wires underground, on the surface or on poles for the transmission of a television picture.

2. If a local government grants a franchise to two or more community antenna television companies to construct, maintain or operate a community antenna television system in the same area, the local government shall

impose the same terms and conditions on each franchise and shall enforce those terms and conditions in a nondiscriminatory manner.

3. A community antenna television company that is granted a franchise pursuant to this chapter may provide ~~[telecommunications]~~ *telecommunication* service or interactive computer service without obtaining a separate franchise from the local government.

4. A local government that grants a franchise pursuant to this chapter shall not require the community antenna television company to place its facilities in ducts or conduits or on poles owned or leased by the local government.

5. If a county whose population is 400,000 or more, or an incorporated city located in whole or in part within such a county, grants a franchise pursuant to this chapter, the term of the franchise must be at least 10 years. If a franchisee notifies such a county or city on or before the end of the eighth year of a franchise that it wishes to extend the franchise, the county or city shall, on or before the end of the ninth year of the franchise, grant an extension of 5 years on the same terms and conditions, unless the franchisee has not substantially complied with the terms and conditions of the franchise agreement.

6. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.~~

~~(b) "Telecommunications]~~ *January 1, 2007.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 69. NRS 268.086 is hereby amended to read as follows:

268.086 1. The governing body of an incorporated city whose population is 25,000 or more:

(a) Shall not sell ~~[telecommunications]~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

2. Any information relating to the study conducted pursuant to subsection 1 must be maintained by the city clerk and made available for public inspection during the business hours of the office of the city clerk.

3. Notwithstanding the provisions of paragraph (a) of subsection 1, an airport may sell ~~[telecommunications]~~ *telecommunication* service to the general public.

4. As used in this section:

(a) ~~["Telecommunications"]~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(b) "Telecommunications]~~ *section 11 of this act.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 70. NRS 268.088 is hereby amended to read as follows:

268.088 The governing body of an incorporated city shall not:

1. Impose any terms or conditions on a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

2. Require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~[telecommunications]~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

3. Require a person who holds a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service to place its facilities in ducts or conduits or on poles owned or leased by the city.

4. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.~~

~~(b) "Telecommunications]~~ *January 1, 2007.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 71. NRS 360.820 is hereby amended to read as follows:

360.820 ~~["Telecommunications]~~ *"Telecommunication* service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 1, 2003.]~~ *section 13 of this act.*

Sec. 72. NRS 360.825 is hereby amended to read as follows:

360.825 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government acquires from another entity a public utility that provides electric service, natural gas service, ~~[telecommunications]~~ *telecommunication* service or community antenna television service:

(a) The local government shall make payments in lieu of and equal to all state and local taxes and franchise fees from which the local government is exempt but for which the public utility would be liable if the public utility was not owned by a governmental entity; and

(b) The Nevada Tax Commission shall, solely for the purpose set forth in this paragraph, annually determine and apportion the assessed valuation of the property of the public utility. For the purpose of calculating any allocation or apportionment of money for distribution among local

governments pursuant to a formula required by state law which is based partially or entirely on the assessed valuation of taxable property:

(1) The property of the public utility shall be deemed to constitute taxable property to the same extent as if the public utility was not owned by a governmental entity; and

(2) To the extent that the property of the public utility is deemed to constitute taxable property pursuant to this paragraph:

(I) The assessed valuation of that property must be included in that calculation as determined and apportioned by the Nevada Tax Commission pursuant to this paragraph; and

(II) The payments required by paragraph (a) in lieu of any taxes that would otherwise be required on the basis of the assessed valuation of that property shall be deemed to constitute payments of those taxes.

2. The payments in lieu of taxes and franchise fees required by subsection 1 are due at the same time and must be collected, accounted for and distributed in the same manner as those taxes and franchise fees would be due, collected, accounted for and distributed if the public utility was not owned by a governmental entity, except that no lien attaches upon any property or money of the local government by virtue of any failure to make all or any part of those payments. The local government may contest the validity and amount of any payment in lieu of a tax or franchise fee to the same extent as if that payment was a payment of the tax or franchise fee itself. The payments in lieu of taxes and franchise fees must be reduced if and to the extent that such a contest is successful.

3. The provisions of this section do not:

(a) Apply to the acquisition by a local government of a public utility owned by another governmental entity, except a public utility owned by another local government for which any payments in lieu of state or local taxes or franchise fees was required before its acquisition as provided in this section.

(b) Require a local government to make any payments in lieu of taxes or franchise fees to the extent that the making of those payments would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(c) Require a county to duplicate any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 73. NRS 360.830 is hereby amended to read as follows:

360.830 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government:

(a) Acquires from another entity a public utility that provides water service or sewer service; or

(b) Expands facilities for the provision of water service, sewer service, electric service, natural gas service, ~~[telecommunications]~~ *telecommunication* service or community antenna television service, and the expansion results in the local government serving additional retail customers who were, before the expansion, retail customers of a public utility which provided that service,

➥ the local government shall enter into an interlocal agreement with each affected local government to compensate the affected local government each fiscal year, as nearly as practicable, for the amount of any money from state and local taxes and franchise fees and from payments in lieu of those taxes and franchise fees, and for any compensation from a local government pursuant to this section, the affected local government would be entitled to receive but will not receive because of the acquisition of that public utility or expansion of those facilities as provided in this section.

2. An affected local government may waive any or all of the compensation to which it may be entitled pursuant to subsection 1.

3. The provisions of this section do not require a:

(a) Local government to provide any compensation to an affected local government to the extent that the provision of that compensation would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or expansion of those facilities, or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(b) County to duplicate any compensation an affected local government receives from any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 74. NRS 598.9682 is hereby amended to read as follows:

598.9682 "Provider" means:

1. A ~~[person who is in the business of providing a telecommunications service;]~~ *telecommunication provider as defined in section 12 of this act;*

2. An agent, employee, independent contractor or representative of *such* a ~~[person who is in the business of providing a telecommunications service;]~~ *telecommunication provider;* or

3. A person who originates a charge for a ~~[telecommunications]~~ *telecommunication* service and directly or indirectly bills a customer for the charge.

Sec. 75. NRS 598.9684 is hereby amended to read as follows:

598.9684 ~~["Telecommunications service" means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound over a communications system or network, including, without limitation, a communications system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.]~~

"Telecommunication service" has the meaning ascribed to it in section 13 of this act.

Sec. 76. NRS 598.969 is hereby amended to read as follows:

598.969 A provider shall not:

1. Make a statement or representation regarding the provision of a ~~[telecommunications]~~ *telecommunication* service, including, without limitation, a statement regarding the rates, terms or conditions of a ~~[telecommunications]~~ *telecommunication* service, that:

(a) Is false, misleading or deceptive; or

(b) Fails to include material information which makes the statement or representation false, misleading or deceptive.

2. Misrepresent his identity.

3. Falsely state to a person that the person has subscribed or authorized a subscription to or has received a ~~[telecommunications]~~ *telecommunication* service.

4. Omit, when explaining the terms and conditions of a subscription to a ~~[telecommunications]~~ *telecommunication* service, a material fact concerning the subscription.

5. Fail to provide a customer with timely written notice containing:

(a) A clear and detailed description relating directly to the services for which the customer is being billed and the amount the customer is being charged for each service;

(b) All terms and conditions relating directly to the services provided; and

(c) The name, address and telephone number of the provider.

6. Fail to honor, within a reasonable period, a request of a customer to cancel a ~~[telecommunications]~~ *telecommunication* service pursuant to the terms and conditions for the service.

7. Bill a customer for a ~~[telecommunications]~~ *telecommunication* service after the customer has cancelled the ~~[telecommunications]~~ *telecommunication* service pursuant to the terms and conditions of the service.

8. Bill a customer for services that the provider knows the customer has not authorized, unless the service is required to be provided by law. The failure of a customer to refuse a proposal from a provider does not constitute specific authorization.

9. Change a customer's subscription to a local exchange carrier or an interexchange carrier unless:

(a) The customer has authorized the change within the 30 days immediately preceding the date of the change; and

(b) The provider complies with the provisions of 47 U.S.C. § 258, as amended, and the verification procedures set forth in 47 C.F.R. part 64, subpart K, as amended.

10. Fail to provide to a customer who has authorized the provider to change his subscription to a local exchange carrier or an interexchange

carrier a written confirmation of the change within 30 days after the date of the change.

11. Propose or enter into a contract with a person that purports to:

(a) Waive the protection afforded to the person by any provision of this section; or

(b) Authorize the provider or an agent, employee, independent contractor or representative of the provider to violate any provision of this section.

Sec. 77. NRS 598.9691 is hereby amended to read as follows:

598.9691 The Public Utilities Commission of Nevada may adopt regulations governing the disclosures that must be made by a provider to a customer before the customer may be charged for a ~~[telecommunications]~~ *telecommunication* service.

Sec. 78. Section 2.270 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 416, Statutes of Nevada 2001, at page 2096, is hereby amended to read as follows:

Sec. 2.270 Power of Board: Provision of utilities.

1. Except as otherwise provided in subsection 2 and section 2.272, the Board may:

(a) Provide, by contract, franchise or public enterprise, for any utility to be furnished to Carson City or the residents thereof.

(b) Provide for the construction of any facility necessary for the provision of such utilities.

(c) Fix the rate to be paid for any utility provided by public enterprise.

(d) Provide that any public utility be authorized, for any purpose or object whatever, to install, operate or use within the city mechanical water meters, or similar mechanical devices, to measure the quantity of water delivered to water users.

2. The Board:

(a) Shall not sell ~~[telecommunications]~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the Clerk and made available for public inspection during the business hours of the Office of the Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~[telecommunications]~~ *telecommunication* service to the general public.

5. As used in this section:

(a) ~~["Telecommunications"]~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(b) "Telecommunications]~~ *section 11 of this act.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 79. Section 2.272 of the Charter of Carson City, being chapter 565, Statutes of Nevada 1997, at page 2750, is hereby amended to read as follows:

Sec. 2.272 Franchises for the provision of ~~[telecommunications]~~ *telecommunication* service.

1. The Board shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~[telecommunications]~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.~~

~~(b) "Telecommunications]~~ *January 1, 2007.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 80. Section 2.280 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 416, Statutes of Nevada 2001, at page 2098, is hereby amended to read as follows:

Sec. 2.280 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 2 and section 2.285, the City Council may:

(a) Provide, by contract, franchise or public enterprise, for any utility to be furnished to the City for the residents thereof.

(b) Provide for the construction of any facility necessary for the provision of such utilities.

(c) Fix the rate to be paid for any utility provided by public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and must be perfected by filing with the County Recorder of Clark County a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(1) Be coequal with the latest lien thereon to secure the payment of general taxes.

(2) Not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(3) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~[telecommunications]~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~[telecommunications]~~ *telecommunication* service to the general public.

5. As used in this section:

(a) ~~[~~"Telecommunications"~~]~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(b) "Telecommunications]~~ *section 11 of this act.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 81. Section 2.285 of the Charter of the City of Henderson, being chapter 565, Statutes of Nevada 1997, at page 2752, is hereby amended to read as follows:

Sec. 2.285 Franchises for the provision of ~~[telecommunications]~~ *telecommunication* service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~[telecommunications]~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.~~

~~(b) "Telecommunications]~~ *January 1, 2007.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 82. Section 2.300 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 416, Statutes of Nevada 2001, at page 2100, is hereby amended to read as follows:

Sec. 2.300 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 3 and section 2.315, the City Council may:

(a) Provide, by contract, franchise or public ownership or operation, for any utility to be furnished to the residents of the City.

(b) Provide for the construction and maintenance of any facility which is necessary for the provision of those utilities.

(c) Prescribe, revise and collect rates, fees, tolls and charges, including fees for connection, for the services, facilities or commodities which are furnished by any municipally owned or municipally operated utility or undertaking and no rate, fee, toll or charge for the services, facilities or commodities which are furnished by any municipally owned or municipally operated utility or undertaking may be prescribed, revised, amended, altered, increased or decreased without proceeding as follows:

(1) There must be filed with the City Clerk and available for public inspection schedules of all rates, fees, tolls and charges which the City has established and which are in force at that time for any

service which is performed or product which is furnished in connection with any utility which is owned or operated by the City.

(2) No change may be made in any of those schedules except upon 30 days' notice to the inhabitants of the City and the holding of a public hearing with respect to the proposed change. Notice of the proposed change must be given by at least two publications during the 30-day period before the hearing.

(3) At the time which is set for the hearing on the proposed change, any person may appear and be heard and offer any evidence in support of or against the proposed change.

(4) Every utility which is owned or operated by the City shall furnish reasonably adequate service and facilities, and the charges which are made for any service which is or will be rendered, or for any service which is connected with or incidental to any service which is or will be rendered, by the City must be just and reasonable.

2. Any rate, fee, toll or charge, including any fee for connection which is due for services, facilities or commodities which are furnished by the City or by any utility which is owned or operated by the City pursuant to this section is a lien upon the property to which the service is rendered. The lien:

(a) Must be perfected by filing with the County Recorder of the County a statement by the City Clerk in which he states the amount which is due and unpaid and describes the property which is subject to the lien.

(b) Is coequal with the latest lien upon that property to secure the payment of general taxes.

(c) Is not subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(d) Is prior and superior to all liens, claims, encumbrances and titles, other than the liens of assessments and general taxes.

(e) May be enforced and foreclosed in such manner as may be prescribed by ordinance.

3. The City Council:

(a) Shall not sell ~~[telecommunications]~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

4. Any information relating to the study conducted pursuant to subsection 3 must be maintained by the City Clerk and made available

for public inspection during the business hours of the Office of the City Clerk.

5. Notwithstanding the provisions of paragraph (a) of subsection 3, an airport may sell ~~[telecommunications]~~ *telecommunication* service to the general public.

6. As used in this section:

(a) ~~["Telecommunications"]~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(b) "Telecommunications]~~ *section 11 of this act.*

(b) Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 83. Section 2.315 of the Charter of the City of Las Vegas, being chapter 565, Statutes of Nevada 1997, at page 2754, is hereby amended to read as follows:

Sec. 2.315 Franchises for the provision of ~~[telecommunications]~~ *telecommunication* service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~[telecommunications]~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.~~

~~(b) "Telecommunications]~~ *January 1, 2007.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 84. Section 2.280 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 416, Statutes of Nevada 2001, at page 2103, is hereby amended to read as follows:

Sec. 2.280 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 3 and section 2.285, the City Council may:

(a) Provide, by contract, franchise and public enterprise, for any utility to be furnished to the City for residents located within or without the City.

(b) Provide for the construction and maintenance of any facilities necessary for the provision of all such utilities.

(c) Prescribe, revise and collect rates, fees, tolls and charges for the services, facilities or commodities furnished by any municipally operated or municipally owned utility or undertaking. Notwithstanding any provision of this Charter to the contrary or in conflict herewith, no rates, fees, tolls or charges for the services, facilities or commodities furnished by any municipally operated or municipally owned utility or undertaking may be prescribed, revised, amended or altered, increased or decreased, without this procedure first being followed:

(1) There must be filed with the City Clerk schedules of rates, fees, tolls or charges which must be open to public inspection, showing all rates, fees, tolls or charges which the City has established and which are in force at the time for any service performed or product furnished in connection therewith by any utility controlled and operated by the City.

(2) No changes may be made in any schedule so filed with the City Clerk except upon 30 days' notice to the inhabitants of the City and a public hearing held thereon. Notice of the proposed change or changes must be given by at least two publications in a newspaper published in the City during the 30-day period before the hearing thereon.

(3) At the time set for the hearing on the proposed change, any person may appear and be heard and offer any evidence in support of or against the proposed change.

(4) Every utility operated by the City shall furnish reasonably adequate service and facilities, and the charges made for any service rendered or to be rendered, or for any service in connection therewith or incidental thereto, must be just and reasonable.

(d) Provide, by ordinance, for an additional charge to each business customer and for each housing unit within the City to which water is provided by a utility of up to 25 cents per month. If such a charge is provided for, the City Council shall, by ordinance, provide for the expenditure of that money for any purpose relating to the beautification of the City.

2. Any charges due for services, facilities or commodities furnished by the City or by any utility operated by the City pursuant to this section is a lien upon the property to which the service is rendered

and must be perfected by filing with the County Recorder of Clark County of a statement by the City Clerk stating the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(a) Be coequal with the latest lien thereon to secure the payment of general taxes.

(b) Not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(c) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

3. The City Council:

(a) Shall not sell ~~[telecommunications]~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

4. Any information relating to the study conducted pursuant to subsection 3 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

5. Notwithstanding the provisions of paragraph (a) of subsection 3, an airport may sell ~~[telecommunications]~~ *telecommunication* service to the general public.

6. As used in this section:

(a) "Housing unit" means a:

(1) Single-family dwelling;

(2) Townhouse, condominium or cooperative apartment;

(3) Unit in a multiple-family dwelling or apartment complex; or

(4) Mobile home.

(b) ~~["Telecommunications"]~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(c) "Telecommunications]~~ *section 11 of this act.*

(c) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 85. Section 2.285 of the Charter of the City of North Las Vegas, being chapter 565, Statutes of Nevada 1997, at page 2758, is hereby amended to read as follows:

Sec. 2.285 Franchises for the provision of ~~[telecommunications]~~ *telecommunication* service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~[telecommunications]~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.~~

~~(b) "Telecommunications]~~ *January 1, 2007.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 86. Section 2.140 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 325, Statutes of Nevada 2005, at page 1143, is hereby amended to read as follows:

Sec. 2.140 General powers of City Council.

1. Except as otherwise provided in subsection 2 and section 2.150, the City Council may:

(a) Acquire, control, improve and dispose of any real or personal property for the use of the City, its residents and visitors.

(b) Except as otherwise provided in NRS 598D.150 and 640C.100, regulate and impose a license tax for revenue upon all businesses, trades and professions.

(c) Provide or grant franchises for public transportation and utilities.

(d) Appropriate money for advertising and publicity and for the support of a municipal band.

(e) Enact and enforce any police, fire, traffic, health, sanitary or other measure which does not conflict with the general laws of the State of Nevada. An offense that is made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor against the City whenever the offense is committed within the City.

(f) Fix the rate to be paid for any utility service provided by the City as a public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and is perfected by filing with the County Recorder a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Any such lien is:

(1) Coequal with the latest lien upon the property to secure the payment of general taxes.

(2) Not subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(3) Prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~[telecommunications]~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~[telecommunications]~~ *telecommunication* service to the general public.

5. As used in this section:

(a) ~~[~~"Telecommunications"~~]~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(b) "~~Telecommunications~~]~~ *section 11 of this act.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 87. Section 2.150 of the Charter of the City of Reno, being chapter 565, Statutes of Nevada 1997, at page 2761, is hereby amended to read as follows:

Sec. 2.150 Franchises for the provision of ~~[telecommunications]~~ *telecommunication* service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~[telecommunications]~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.~~

~~(b) "Telecommunications]~~ *January 1, 2007.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 88. Section 2.110 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 416, Statutes of Nevada 2001, at page 2107, is hereby amended to read as follows:

Sec. 2.110 Powers of City Council: Provisions for utilities.

1. Except as otherwise provided in subsection 2 and section 2.115, the City Council may:

(a) Provide by contract, franchise or public enterprise, for any utility to be furnished to the City for the residents thereof.

(b) Provide for the construction of any facility necessary for the provisions of such utility.

(c) Fix the rate to be paid for any utility provided by public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and must be performed by filing with the County Recorder a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(1) Be coequal with the latest lien thereon to secure the payment of general taxes.

(2) Not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(3) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~[telecommunications]~~ *telecommunication* service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ *telecommunication* that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~[telecommunications]~~ *telecommunication* service to the general public.

5. As used in this section:

(a) ~~["Telecommunications"]~~ *"Telecommunication"* has the meaning ascribed to it in ~~[47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(b) "Telecommunications]~~ *section 11 of this act.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 89. Section 2.115 of the Charter of the City of Sparks, being chapter 565, Statutes of Nevada 1997, at page 2763, is hereby amended to read as follows:

Sec. 2.115 Franchises for the provision of ~~[telecommunications]~~ *telecommunication* service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~[telecommunications]~~ *telecommunication* service or interactive computer service to obtain a franchise if it provides ~~[telecommunications]~~ *telecommunication* service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~[telecommunications]~~ *telecommunication* service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~[230(e)(2),]~~ *230(f)(2),* as that section existed on ~~[July 16, 1997.~~

~~(b) "Telecommunications]~~ *January 1, 2007.*

(b) "Telecommunication service" has the meaning ascribed to it in ~~[47 U.S.C. § 153(46), as that section existed on July 16, 1997.]~~ *section 13 of this act.*

Sec. 90. NRS 704.68904, 704.68908, 704.6891, 704.68912, 704.68916, 704.6892, 704.68922, 704.68924, 704.68928, 704.68932, 704.68936, 704.6894, 704.68942, 704.68944, 704.68946, 704.68947, 704.68948, 704.68952, 704.68956, 704.6896, 704.68964, 704.68966, 704.68968, 704.68972, 704.68976, 704.6898 and 704.68984 are hereby repealed.

Sec. 91. 1. The Public Utilities Commission of Nevada shall:

(a) On or before December 31, 2007, repeal any regulations which the Commission has adopted pursuant to NRS 704.68904 to 704.68984, inclusive, and any other regulations which are inconsistent with this act; and

(b) Except as otherwise provided in subsections 2 and 3, on or before July 1, 2008, adopt any regulations which are required by or necessary to carry out the provisions of this act.

2. Notwithstanding any other provision of this act:

(a) In carrying out the provisions of NRS 704.6873, as amended by this act, the Commission shall:

(1) Commence a regulatory proceeding to establish the eligibility requirements for competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service based on the need of such competitive suppliers for funding to maintain the availability of telephone service to rural, insular and high-cost areas; and

(2) Conclude that regulatory proceeding and establish the eligibility requirements not later than January 1, 2009.

(b) Except for a small-scale provider of last resort, a competitive supplier that is a provider of last resort:

(1) May not apply to receive payments from the fund to maintain the availability of telephone service until the Commission has completed the regulatory proceeding required by this subsection; and

(2) Is not eligible to receive payments from the fund to maintain the availability of telephone service unless the competitive supplier meets the eligibility requirements established by the Commission in the regulatory proceeding required by this subsection.

3. Notwithstanding any other provision of this act, the Commission shall:

(a) As soon as reasonably practicable, commence a regulatory proceeding to adopt the regulations required by section 15 of this act; and

(b) Conclude that regulatory proceeding and adopt those regulations not later than March 1, 2008.

4. As used in this section, unless the context otherwise requires, the words and terms defined in NRS 704.007 to 704.030, inclusive, and sections 2 to 13, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 92. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

704.68904 Definitions.

704.68908 "Affected person" defined.

704.6891 "Affiliate of an incumbent local exchange carrier" and "affiliate" defined.

704.68912 "Basic network service" defined.

704.68916 "Competitive service" defined.

704.6892 "Competitive supplier" defined.

704.68922 "Deregulated service" defined.

704.68924 "Discretionary service" defined.

704.68928 "Electing PAR carrier" defined.

704.68932 "Incumbent local exchange carrier" defined.

704.68936 "Local area of transport and access" or "LATA" defined.

704.6894 "Other essential service" defined.

704.68942 "PAR carrier" defined.

704.68944 "Price floor" defined.

704.68946 "Telecommunication" defined.

704.68947 "Telecommunication service" defined.

704.68948 Authority of PAR carrier to become electing PAR carrier for purposes of regulation; procedure for making election.

704.68952 Regulation of electing PAR carrier: Limitations on power of Commission regarding earnings and rates; termination and continuation of plan of alternative regulation; limitations on receipt of money from fund created pursuant to NRS 704.040.

704.68956 Regulation of electing PAR carrier: Approval of Commission required to discontinue or change terms and conditions relating to provision of certain basic network services.

704.6896 Reclassification of basic network services: Authority of Commission; adoption of criteria for reclassification; period for acting on request for reclassification from PAR carrier.

704.68964 Flexibility in pricing and terms of services: Authority of PAR carrier; procedure and requirements for exercising flexibility; PAR carrier permitted to bill customer using fixed price or amount for package of services.

704.68966 Flexibility in pricing and terms of services: Prohibition against anticompetitive acts and practices and unreasonable discrimination among similarly situated customers.

704.68968 Promotional price reductions: Notice; duration; geographic area; nondiscriminatory basis.

704.68972 Introduction of new services: Notice; conditions; exemption from certain regulations of Commission; classification; price.

704.68976 Rates for services to be averaged geographically; exception.

704.6898 Intrastate access prices: Maximum amount; offset of reductions.

704.68984 Powers and duties of Commission and PAR carriers under certain federal and state laws preserved.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 526.

Bill read second time.

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

Amendment No. 702.

"SUMMARY—Revises provisions relating to community antenna television, cable television, video service, Internet service and other information technology. (BDR 58-1129)"

"AN ACT relating to information technology; revising provisions governing the regulation of community antenna television, cable television and other video service; establishing a new regulatory structure for video service providers; requiring the Secretary of State to perform certain duties under the new regulatory structure; limiting the regulatory powers of local governments regarding video service providers; providing fees; requiring providers of Internet service to offer , *under certain circumstances,* products or services which enable subscribers to regulate and monitor a child's use of the Internet; providing remedies and penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill enacts various provisions relating to community antenna television, cable television, video service, Internet service and other information technology.

Under existing law, a local government has the authority to grant local franchises for the operation of a community antenna or cable television system within its jurisdiction. Because each local government has independent authority to grant its own franchises, a cable operator that wants to operate in multiple jurisdictions must negotiate a separate local franchise with each local government. (Chapter 711 of NRS)

To promote competition in the cable industry, the federal Cable Act prohibits a local government from granting an exclusive franchise or unreasonably refusing to grant competitive franchises. The federal Cable Act also prohibits a local government from imposing a franchise fee that exceeds 5 percent of a cable operator's gross revenue. (47 U.S.C. §§ 541, 542)

This bill repeals the existing statutory scheme of regulating video service through local franchises and replaces it with a statutory scheme that is intended to promote more competition in the market for such service. This bill applies to community antenna television companies, cable operators and other video service providers. However, this bill allows an existing franchise holder to continue operating under its local franchise until that franchise expires ~~[.]~~ *, and this bill also allows a local government in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to renew or extend the term of a local franchise.*

Under this bill, a video service provider must obtain a certificate of authority from the Secretary of State, which acts as a state-issued franchise to provide video service within the service areas designated in the certificate. This bill establishes various standards and practices for video service providers, including requirements for providing local governments with community access channels for public, educational and governmental programming.

This bill preempts most local regulation of video service providers. However, this bill allows a local government to manage the activities of video service providers within any public right-of-way or highway, including inspecting any construction or repair work. This bill also allows a local government to impose a franchise fee that does not exceed 5 percent of a video service provider's gross revenue.

Finally, this bill requires a provider of Internet service *, under certain circumstances,* to make available to subscribers in this State products or services which enable the subscribers to block, restrict and monitor a child's Internet activities. This bill authorizes the provider to charge a fee to those subscribers who elect to use the products or services. A provider of Internet service that fails to comply with the requirements commits a deceptive trade practice and is subject to ~~[civil and]~~ *the procedures for* administrative *enforcement and the* remedies and penalties ~~[.]~~ *under the Deceptive Trade Practice Act. (NRS 598.0903-598.0999)*

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

Section 1. NRS 704.030 is hereby amended to read as follows:

704.030 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to $5,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in section 27 of this act, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

Sec. 2. Chapter 711 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 60, inclusive, of this act.

Sec. 3. *"Agreement" means any agreement or contract of any kind.*

Sec. 4. *"Cable operator" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 5. *"Cable service" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 6. *"Cable system" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 7. *"Certificate of authority" or "certificate" means a certificate issued by the Secretary of State pursuant to this chapter which grants the holder of the certificate a state-issued franchise to provide video service and construct and operate a video service network within the service areas designated in the certificate.*

Sec. 8. *"Commercial mobile service provider" means a person who provides commercial mobile service, as defined in 47 U.S.C. § 332(d), as that section existed on January 1, 2007.*

Sec. 9. *"Franchise" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 10. *"Franchise fee" means a franchise fee imposed by a local government on a video service provider for the privilege of providing video service.*

Sec. 11. *1. "Gross revenue" means:*

(a) Any revenue a video service provider receives from its subscribers for providing video service to those subscribers, as determined in accordance with generally accepted accounting principles, except for revenue excluded pursuant to subsection 3; and

(b) Any other consideration a video service provider receives from its subscribers for providing video service when it is received in a transaction that would evade imposition of a franchise fee if such consideration is not included in revenue, except for revenue excluded pursuant to subsection 3.

2. The term includes, without limitation:

(a) Recurring monthly charges;

(b) Event-based charges, including, without limitation, charges for pay per view and video on demand;

(c) Charges for the rental of set-top boxes and other equipment;

(d) Service charges, including, without limitation, charges for activation, installation, repair and maintenance;

(e) Administrative charges, including, without limitation, charges for service orders and service termination; and

(f) The amount of any revenue received by a video service provider for providing video service when such service is a component of a bundle of services or products sold for a single price, but only to the extent the revenue received by the video service provider for the bundle of services or products is proportionately allocated among each of the components.

3. The term does not include:

(a) Revenue not actually received, regardless of when it is billed.

(b) Refunds, rebates or discounts made to subscribers.

(c) Revenue from providing service other than video service, including, without limitation, revenue from providing:

(1) Telecommunication service; or

(2) Information service that is not video service.

(d) Any fee imposed on the video service provider that is passed through to and paid by subscribers, including, without limitation, a franchise fee.

(e) Revenue from the sale of video service to any person who purchases the video service for resale and who, upon resale, is required to pay a franchise fee pursuant to this chapter or the terms of a local franchise.

(f) Any tax of general applicability.

(g) The fair market value of free or reduced-cost video service provided without set-off or exchange to any person who is entitled or permitted to receive such service pursuant to this chapter or federal law.

(h) Late payment fees collected from subscribers.

Sec. 12. *"Holder of a certificate" or "holder" means a video service provider that has been issued a certificate of authority pursuant to this chapter.*

Sec. 13. *"Incumbent cable operator" means any cable operator, community antenna television company or other video service provider that, on the effective date of this act, is providing video service in this State pursuant to a local franchise.*

Sec. 14. *"Information service" has the meaning ascribed to it in 47 U.S.C. § 153(20), as that section existed on January 1, 2007.*

Sec. 15. *"Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.*

Sec. 16. *"Jurisdiction of a local government" means:*

1. In the case of a city, the corporate limits of the city.

2. In the case of a county, the unincorporated area of the county.

Sec. 17. *1. "Local franchise" means any franchise, agreement, permit, license or similar authorization, regardless of its name, which:*

~~[1.]~~ (a) Permits a person to construct or operate a cable system, community antenna television system or video service network within the jurisdiction of a local government;

~~[2.]~~ (b) Was issued, granted, approved or renewed by the governing body of the local government before the effective date of this act pursuant to the authority of any federal, state or local law in effect at the time of the issuance, grant, approval or renewal; and

~~[3.]~~ (c) On the effective date of this act, is legally effective and unexpired.

2. The term includes, without limitation, an unexpired local franchise that a local government in a county whose population is less than 100,000 renews or extends the term of pursuant to sections 32 and 32.5 of this act.

Sec. 18. *"Local law" means any charter, code, ordinance, regulation or other law of a local government.*

Sec. 19. *"Multichannel video programming distributor" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.*

Sec. 20. *"Service area" means the geographical territory in this State within which a video service provider is authorized to provide video service ~~[under]~~ pursuant to a certificate of authority ~~[,]~~ or local franchise.*

Sec. 21. *1. "Subscriber" means any person in this State who purchases video service.*

2. The term does not include any person who purchases video service for resale and who, upon resale, is required to pay a franchise fee pursuant to this chapter or the terms of a local franchise.

Sec. 22. *"Telecommunication" means the transmission, between or among points specified by the user, of information of the user's choosing,*

without change in the form or content of the information sent and received, regardless of the facilities, equipment or technology used.

Sec. 23. *"Telecommunication provider" means any person required to obtain from the Public Utilities Commission of Nevada a certificate of public convenience and necessity pursuant to NRS 704.330 to provide telecommunication service.*

Sec. 24. *"Telecommunication service" means the offering of telecommunication for a fee directly to the public, or such classes of users as to be effectively available directly to the public, regardless of the equipment, facilities or technology used.*

Sec. 25. *1. "Video service" means the provision of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, cable service or other digital television service, whether provided as part of a tier, on-demand or on a per-channel basis, without regard to the technology used to deliver the video service, including, without limitation, Internet protocol technology or any successor technology.*

2. The term includes, without limitation:

(a) Cable service; and

(b) Video service delivered by a community antenna television system.

3. The term does not include:

(a) Any video content provided solely as part of, and through, a service which enables users to access content, information, electronic mail or other services that are offered via the public Internet.

(b) Direct broadcast satellite service.

(c) Any wireless multichannel video programming provided by a commercial mobile service provider.

Sec. 26. *1. "Video service network" means a wireline facility, or any component thereof, which is:*

(a) Located in this State;

(b) Constructed in whole or in part in, on, under or over any public right-of-way or highway; and

(c) Used to provide video service.

2. The term includes, without limitation:

(a) A cable system; and

(b) A community antenna television system.

Sec. 27. *1. "Video service provider" or "provider" means any person that provides or offers to provide video service over a video service network to subscribers in this State.*

2. The term includes, without limitation:

(a) ~~[A]~~ An incumbent cable operator or other cable operator;

(b) A community antenna television company; and

(c) A multichannel video programming distributor.

Sec. 28. *This chapter occupies the entire field of franchising and regulation of video service and, except as otherwise provided in sections 45*

and 46 of this act, preempts any local law or agreement with a local government that:

1. Requires a person to obtain or hold from a local government any franchise, permit, license or similar authorization, regardless of its name, to provide video service or to construct or operate a video service network, unless the person is an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to ~~[section 32]~~ sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise . ~~[until the date on which the local franchise expires.]~~

2. Regulates the provision of video service or the construction or operation of a video service network if such regulation conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. Requires a video service provider to pay any fee to a local government if the payment of such a fee conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

Sec. 29. *1. For the purpose of bringing about fair and reasonable competition for video service, the Secretary of State has the exclusive authority to issue a certificate of authority to a person to provide video service and construct and operate a video service network in any service area in this State.*

2. The Secretary of State:

(a) Shall carry out the provisions of this chapter; and

(b) May adopt regulations necessary for the issuance, modification and termination of a certificate of authority, including, without limitation, prescribing any forms related to the application process.

3. On or after the effective date of this act, a local government does not have the authority to:

(a) Issue, grant, approve or renew any franchise, agreement, permit, license or similar authorization, regardless of its name, for the privilege of:

(1) Providing video service within the jurisdiction of the local government; or

(2) Except as otherwise provided in sections 45 and 46 of this act, constructing or operating a video service network within the jurisdiction of the local government ~~[.]~~ ,

➥ except that a local government in a county whose population is less than 100,000 may renew or extend the term of an unexpired local franchise of an incumbent cable operator which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise;

(b) Impose any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; or

(c) Except as otherwise provided in sections 45 and 46 of this act, require the payment of any application, document, franchise, service or other fee, tax, charge or assessment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government.

Sec. 29.5. ~~*[In carrying out the provisions of this chapter, the Secretary of State shall charge and collect:*~~

~~*1. A filing fee, in an amount not to exceed $1,000, for accepting any application or notice pursuant to the provisions of this chapter; and*~~

~~*2. Except as otherwise provided in this subsection, a certification fee, in the amount of $25,000, for issuing an original certificate of authority to a person who does not hold such a certificate pursuant to the provisions of this chapter. The Secretary of State:*~~

~~*(a) May charge and collect the certification fee only once from each such person; and*~~

~~*(b) May not charge and collect the certification fee from a local government that is authorized pursuant to NRS 711.175 to sell video service to the general public, or any entity or agency that is directly or indirectly controlled by the local government, if it provides video service or constructs or operates a video service network exclusively within the territorial boundaries of the local government.]*~~

1. In carrying out the provisions of this chapter, the Secretary of State shall charge and collect the fees set forth in this section.

2. Except as otherwise provided in subsection 3, the filing fee for accepting any application or notice pursuant to the provisions of this chapter is $1,000.

3. The filing fee for accepting an original application for a certificate of authority pursuant to sections 33 and 34 of this act:

(a) Is $250 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000.

(b) Is $500 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (c) apply.

(c) Is $1,000 for a service area located in whole or in part within a county whose population is 100,000 or more.

4. A person may elect to apply for a certificate of authority that permits, but does not require, the person to provide video service within one or more service areas located anywhere in this State as designated in the application and affidavit filed by the person pursuant to section 33 of this act. If a person applies for such a certificate of authority, the certification fee for issuing the certificate of authority to the person pursuant to sections 33 and 34 of this act is $25,000. The Secretary of State may charge and collect the certification fee pursuant to this subsection only once from each such person.

5. If a person elects not to apply for a certificate of authority in accordance with subsection 4, the certification fee for issuing a certificate of

authority to the person pursuant to sections 33 and 34 of this act or for issuing an amended certificate of authority to the person pursuant to section 35 of this act:

(a) Is $250 for a service area located entirely within the territorial boundaries of a town, township or city whose population is less than 1,000, regardless of the population of the county.

(b) Is $2,500 for a service area located entirely within the territorial boundaries of a town, township or city whose population is 1,000 or more but less than 50,000, regardless of the population of the county.

(c) Is $2,500 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000, unless the provisions of paragraph (a) or (b) apply.

(d) Is $15,000 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (a), (b) or (e) apply.

(e) Is $25,000 for a service area located in whole or in part within the territorial boundaries of a county whose population is 100,000 or more, unless the provisions of paragraph (a) or (b) apply.

6. The Secretary of State shall charge and collect the fees set forth in this section based on:

(a) The information provided in the application and affidavit filed by the person pursuant to paragraph (a) of subsection 2 of section 33 of this act; and

(b) The estimated population of each town, township, city and county in this State as set forth in the most recent annual report issued by the Department of Taxation pursuant to NRS 360.283.

7. The fees imposed by this section may not be passed through to and collected from subscribers of video service.

Sec. 30. *The provisions of this chapter must not be interpreted to:*

1. Authorize the Secretary of State to exercise oversight of video service providers except as provided in this chapter.

2. Prevent a telecommunication provider from exercising any rights or authority that the provider has as a public utility under federal or state law.

Sec. 31. *Except as otherwise provided in this chapter, a person shall not act as a video service provider or construct or operate a video service network in any service area unless the person has obtained a certificate of authority for that service area.*

Sec. 32. *1. If, on the effective date of this act, an incumbent cable operator is providing video service within a service area pursuant to a local franchise, the incumbent cable operator may elect to:*

(a) Continue to operate within that service area pursuant to the local franchise ~~[until the date on which the local franchise expires;]~~ in accordance with section 32.5 of this act; or

(b) Terminate the local franchise within that service area by applying for and obtaining a certificate of authority pursuant to ~~[subsection 3.~~

~~*2. If an incumbent cable operator elects to continue to operate within a service area pursuant to a local franchise, the incumbent cable operator:*~~

~~*(a) Must comply with the local franchise and all applicable provisions of this chapter until the date on which the local franchise expires; and*~~

~~*(b) To operate within that service area on or after the date on which the local franchise expires, must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires.*~~

~~*3.1*~ *this section.*

2. To elect to terminate a local franchise within a service area, an incumbent cable operator must, not later than 6 months after the effective date of this act, apply for a certificate of authority for that service area in the same manner as any other video service provider. If the incumbent cable operator makes such an election and obtains a certificate of authority for that service area:

(a) The local franchise for that service area is deemed to be terminated by operation of law on the date on which the Secretary of State issues the certificate of authority;

(b) Not later than 3 business days after the date on which the Secretary of State issues the certificate of authority, the incumbent cable operator shall file with the clerk of the local government which granted the franchise a written declaration that the incumbent cable operator has obtained a certificate of authority and that the local franchise for that service area has been terminated by operation of law; and

(c) The incumbent cable operator shall operate within that service area thereafter subject only to the same requirements that apply to any other holder of a certificate.

Sec. 32.5. *1. Except as otherwise provided in subsection 2, if an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise:*

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area;

(b) The local franchise is not effective for that service area on or after the date on which the local franchise expires; and

(c) The local government may not renew or extend the term of the local franchise for that service area.

➥ *To operate within that service area on or after the date on which the local franchise expires, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the*

certificate does not become effective until the date on which the local franchise expires.

2. If an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise and the service area is located entirely within the territorial boundaries of a county whose population is less than 100,000:

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area; and

(b) The local government may renew or extend the term of the local franchise for that service area, provided that the terms and conditions of the renewal or extension do not conflict with or are not otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

➥ To operate within that service area on or after the date on which the local franchise expires without renewal or extension, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires without renewal or extension.

Sec. 33. *1. To obtain a certificate of authority, a person must:*

(a) File with the Secretary of State an application and affidavit which are signed by one of the principal executive officers or general partners of the applicant and which comply with the provisions of this section; and

(b) Pay ~~[the fees]~~ any fee required by section 29.5 of this act.

2. The application and affidavit must be in the form required by the Secretary of State and must contain only the following:

(a) A description of each service area designated by the applicant in which the applicant intends to provide video service and a map of each such service area that shows the territorial boundaries of each local government located, in whole or in part, within the service area.

(b) The location of the principal place of business of the applicant and the names of the principal executive officers or general partners of the applicant.

(c) Certifications that the applicant:

(1) Agrees to comply with all applicable federal and state laws and regulations;

(2) Agrees to comply with all generally applicable, nondiscriminatory local laws regarding the use and occupation of any public right-of-way or highway in the construction, operation, maintenance and repair of a video service network, including, without limitation, any local laws enacted pursuant to the police powers of the local government in which the video service network is located; and

(3) Has filed or will timely file with the Federal Communications Commission all forms required by that agency before offering video service.

3. If the Secretary of State determines that the application and affidavit are incomplete or otherwise deficient, the Secretary of State shall provide written notice to the applicant not later than 15 days after the date on which the application and affidavit are filed. The written notice must:

(a) Explain the incompleteness or deficiency in detail; and

(b) Identify with specificity the information or other items that are necessary to complete the application and affidavit properly.

4. The applicant shall provide a copy of the application and affidavit to the governing body of each local government located, in whole or in part, within each service area designated in the application. The applicant shall provide such a copy:

(a) Not later than 3 business days after the date on which the application and affidavit are first filed with the Secretary of State; and

(b) If a revised application and affidavit are filed, not later than 3 business days after the date on which the revised application and affidavit are filed with the Secretary of State.

5. The copy of the application and affidavit provided by the applicant to a governing body is for informational purposes only, and the governing body may not:

(a) Vote on or take other official action regarding the application and affidavit; or

(b) Require the applicant to obtain the approval of the governing body regarding the application and affidavit.

Sec. 34. *1. Not later than 20 days after the date on which an applicant files a completed application and affidavit pursuant to section 33 of this act and pays ~~[the fees]~~ any fee required by section 29.5 of this act, the Secretary of State shall issue a certificate of authority to the applicant.*

2. The certificate of authority issued by the Secretary of State is a state-issued franchise granting the holder of the certificate with the authority to:

(a) Provide video service in each service area designated in the application and affidavit filed with the Secretary of State; and

(b) Construct and operate a video service network in compliance with the provisions of this chapter and all local laws that are not in conflict or otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. The Secretary of State may not condition or limit a certificate of authority by imposing on the holder of the certificate any obligations or requirements that are not authorized by the provisions of this chapter, including, without limitation:

(a) Any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment; or

(b) Any requirements to pay any application, document, franchise, service or other fee, tax, charge or assessment that is not authorized by the provisions of this chapter.

Sec. 35. *1. If the holder of a certificate wants to add one or more new service areas to the certificate, the holder must ~~[file]~~ :*

(a) File with the Secretary of State an application for an amendment to the certificate to add the new service areas ~~[.]~~ ; and

(b) Pay any fee required by section 29.5 of this act.

2. The application for an amendment to the certificate must contain a description of each new service area designated by the holder and a map of each new service area that shows the territorial boundaries of each local government located, in whole or in part, within the new service area.

3. The application for an amendment to the certificate is subject to the same procedures, requirements and time periods as an application for the issuance of a certificate pursuant to sections 33 and 34 of this act . ~~[, except that the holder is not required to pay the certification fee required by section 29.5 of this act.]~~

Sec. 36. *1. If the holder of a certificate wants to modify the boundaries of an existing service area authorized under the certificate, the holder must file with the Secretary of State written notice of the modification ~~[.]~~ and pay any fee required by section 29.5 of this act.*

2. The holder may make the modification on the date on which it files the written notice with the Secretary of State.

Sec. 37. *1. If the holder of a certificate wants to terminate service to an existing service area authorized under the certificate, the holder must file with the Secretary of State written notice of the termination ~~[.]~~ and pay any fee required by section 29.5 of this act.*

2. The holder may make the termination on the date on which it files the written notice with the Secretary of State.

Sec. 38. *1. Except as otherwise provided in this section, a certificate of authority is fully transferable to any successor-in-interest of the holder of the certificate whether the transfer to the successor-in-interest arises through merger, sale, assignment, restructuring, change of control or any other type of transaction.*

2. The holder shall file with the Secretary of State written notice of the transfer of the certificate to the successor-in-interest and pay any fee required by section 29.5 of this act not later than 10 days after the date on which the transfer is completed.

3. Before the holder may transfer its certificate to the successor-in-interest, the successor-in-interest must agree that any collective bargaining agreement entered into by the holder shall continue to be honored, paid or performed by the successor-in-interest to the same extent as would be required if the holder continued to operate under its certificate unless such continued application of the collective bargaining agreement to the successor-in-interest is prohibited or limited by the terms of the

agreement or by federal or state law. Any transfer of a certificate of authority that violates the provisions of this subsection is void and unenforceable and is not valid for any purpose.

Sec. 39. *1. Not later than 24 months after the date on which the Secretary of State issues a certificate of authority pursuant to sections 33 and 34 of this act or an amended certificate of authority pursuant to section 35 of this act, the holder of the certificate must have the capability to offer and provide video service to at least one subscriber who resides within the territorial boundaries of each service area authorized by the certificate or the amended certificate.*

2. If a holder fails to comply with the provisions of subsection 1, the holder's certificate of authority shall be deemed to be revoked by operation of law without the need for any notice, hearing or action by the Secretary of State.

Sec. 40. *A holder of a certificate shall provide video service in accordance with the certifications made by the holder in each application and affidavit that the holder files with the Secretary of State pursuant to section 33 or 35 of this act.*

Sec. 40.5. *1. If a video service provider that is not an incumbent cable operator within the jurisdiction of a local government intends to construct facilities within the jurisdiction of the local government pursuant to a certificate of authority, the video service provider shall, until it has constructed all the facilities intended for the jurisdiction of the local government, prepare and submit to the local government a semiannual report which describes the number of service locations within the jurisdiction of the local government that are capable of receiving video service from the video service provider.*

2. The video service provider shall submit the report to the local government not later than 10 business days after the last day of the second and fourth calendar quarters of each year.

3. The information contained in a report that is submitted to a local government pursuant to this section:

(a) Is confidential proprietary information of the video service provider;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the local government unless the video service provider consents to the disclosure or the disclosure is made pursuant to subsection 4.

4. Upon request from the Director of the Legislative Counsel Bureau, a local government shall disclose the information contained in a report that is submitted to the local government pursuant to this section to the Director for confidential use by the Legislature and the Legislative Counsel Bureau. The information that is disclosed to the Director:

(a) Is confidential proprietary information of the video service provider;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Legislature or the Legislative Counsel Bureau unless the video service provider consents to the disclosure.

Sec. 41. *1. A video service provider shall activate and offer video service in a nondiscriminatory manner within each service area and shall not deny access to video service to any group of potential residential subscribers within a particular part of a service area because of the income profile of the persons who reside in that particular part of the service area.*

2. In providing video service, a video service provider shall comply with:

(a) The provisions of 47 U.S.C. § 551, as that section existed on January 1 2007.

(b) The provisions of the National Electrical Safety Code, as adopted and as may be amended by the Institute of Electrical and Electronics Engineers, Inc., with regard to the video service provider's construction practices and installation of equipment.

(c) Any technical standards governing the design, construction and operation of a video service network required by federal law.

(d) The provisions of 47 C.F.R. Part 11, as adopted and as may be amended by the Federal Communications Commission, to the extent those provisions require a video service provider to participate in the Emergency Alert System.

Sec. 42. *1. A video service provider:*

(a) Shall comply with the provisions of 47 C.F.R. §§ 76.309, 76.1601 to 76.1604, inclusive, and 76.1618 to 76.1622, inclusive, as adopted and as may be amended by the Federal Communications Commission, with regard to the standards governing the quality of video service and customer service; and

(b) May not be required to comply with more stringent or different customer service obligations than those set forth in paragraph (a).

2. To facilitate the resolution of complaints regarding video service made by subscribers ~~*[, a]*~~ *:*

(a) A video service provider shall establish and maintain a customer service department and provide each subscriber with instructions for:

~~*[(a)]*~~ *(1) Contacting the customer service department if the subscriber has a complaint regarding video service; and*

~~*[(b)]*~~ *(2) Contacting the local government if the video service provider does not resolve the complaint to the satisfaction of the subscriber.*

(b) Each local government which is located in a county whose population is 25,000 or more and which collects a franchise fee pursuant to section 46 of this act shall establish a process to:

(1) Make available to the public a list of video service providers authorized to provide video service within the jurisdiction of the local government;

(2) Respond to inquiries from subscribers and disseminate information to those subscribers regarding the standards governing the quality of video service and customer service prescribed by subsection 1 and the procedures

available to subscribers to resolve complaints with such video service providers;

(3) Coordinate the resolution of subscriber complaints with the customer service departments of such video service providers;

(4) Facilitate access by subscribers to procedures to seek corrective action or other redress from such video service providers for alleged violations of the customer service standards prescribed by subsection 1; and

(5) Maintain a record of the number and general subject matter of subscriber complaints against each such video service provider. The record must contain a separate listing for each such video provider and must be made available for public inspection.

3. Before a local government may take the action permitted by subsection 4 ~~[or 5]~~ against a video service provider regarding a complaint from a subscriber:

(a) The subscriber must provide notice of the complaint to the video service provider by contacting the customer service department of the video service provider; and

(b) The video service provider must be given a period of not less than ~~[5]~~ 10 business days after the date on which it receives the notice from the subscriber to resolve the complaint to the satisfaction of the subscriber.

4. If ~~[a subscriber files a written complaint regarding video service with a local government, the local government may impose an administrative fine against the video service provider if, after notice and an opportunity for a hearing before a hearing officer, it is proven by substantial evidence that the video service provider has, with regard to that subscriber, violated the customer service obligations that apply to the video service provider pursuant to this section. The amount of the administrative fine:~~

~~(a) For the first violation involving that subscriber in any period of 12 consecutive months, must not exceed $250.~~

~~(b) For the second violation involving that subscriber in any period of 12 consecutive months, must not exceed $500.~~

~~(c) For the third and any subsequent violation involving that subscriber in any period of 12 consecutive months, must not exceed $750.~~

~~5. If a video service provider fails to pay a fine imposed by a local government pursuant to this section or if]~~ a local government has reasonable cause to believe that a video service provider has committed persistent or repeated violations of the customer service obligations that apply to the video service provider pursuant to this section, the local government may file a written complaint with the Bureau of Consumer Protection in the Office of the Attorney General pursuant to section 60 of this act.

Sec. 43. *1. A video service provider may provide telecommunication service pursuant to chapter 704 of NRS and the regulations approved by the Public Utilities Commission of Nevada for telecommunication providers.*

2. A video service provider shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing any

telecommunication service that is subject to regulation by the Public Utilities Commission of Nevada.

3. A local government shall not require a video service provider to obtain a franchise from the local government to provide:

(a) Telecommunication service; or

(b) Interactive computer service,

➥ *if the video service provider uses its own video service network within the jurisdiction of the local government to provide such service.*

Sec. 44. ~~*[1. On or after the effective date of this act, a purveyor of video service shall not enter into any agreement or other arrangement with any person that directly or indirectly:*~~

~~*(a) Excludes another purveyor of video service from any private easement or right-of-way for the installation on real property of facilities or equipment used to provide video service;*~~

~~*(b) Restricts or limits access to real property on different terms and conditions among different purveyors of video service; or*~~

~~*(c) Grants exclusive rights to the purveyor of video service to:*~~

~~*(1) Install its facilities or equipment on real property during the construction or developmental phase of the real property; or*~~

~~*(2) Provide video service to the occupants of the real property.*~~

~~*2. This section does not prohibit a purveyor of video service from participating in an agreement for exclusive marketing of video programming and other programming service.*~~

~~*3. As used in this section, "purveyor of video service" means any person who furnishes video service to subscribers in this State using any form of technology or type of facilities, regardless of whether the person:*~~

~~*(a) Is a video service provider subject to the provisions of this chapter; or*~~

~~*(b) Provides video service over a video service network that is constructed in whole or in part in, on, under or over any public right-of-way or highway.]*~~ *(Deleted by amendment.)*

Sec. 45. *1. A local government shall not require a video service provider to place its facilities in ducts or conduits or on poles owned or leased by the local government.*

2. A local government shall manage the use of any public right-of-way or highway by video service providers in a manner that:

(a) Is consistent with federal and state law and the lawful police powers of the local government; and

(b) Is competitively neutral and does not:

(1) Discriminate among video service providers; or

(2) Discriminate between video service providers and any other users of the public right-of-way or highway for the construction and operation of facilities.

3. In managing any public right-of-way or highway, a local government may:

(a) Require a video service provider that is constructing, installing, working within, maintaining or repairing facilities in, on, under or over any public right-of-way or highway to obtain a construction, encroachment or occupancy permit or license for such work; and

(b) Inspect the construction, installation, maintenance or repair work performed on such facilities.

4. If a video service provider makes a request for such a permit or license, the local government shall act upon the request not later than 10 business days after the date on which the request is made.

5. A local government may charge a video service provider a fee to issue such a permit or license or to perform any inspection authorized by this section. The amount of any fee charged by a local government pursuant to this subsection may not exceed the actual costs incurred by the local government in administering the process of issuing such permits or licenses and performing such inspections.

6. If there is a situation necessitating emergency response work or repair in, on, under or over any public right-of-way or highway, a video service provider may begin that work or repair without prior approval from a local government if the provider notifies the local government as promptly as reasonably possible after learning of the need for that work or repair.

Sec. 46. *1. For the privilege of providing video service through a video service network that occupies or uses, in whole or in part, any public right-of-way or highway within the jurisdiction of a local government, the local government may require a video service provider to pay a franchise fee to the local government based on the gross revenue that the provider receives from its subscribers within the jurisdiction of the local government.*

2. To require the payment of the franchise fee, the governing body of the local government must adopt a nondiscriminatory ordinance or resolution that imposes the franchise fee equally and uniformly on all video service providers operating within the jurisdiction of the local government.

3. The local government shall not require a video service provider to pay a franchise fee for any year in a total amount that exceeds 5 percent of the gross revenue that the provider received during that year from its subscribers within the jurisdiction of the local government.

4. The entire amount of the franchise fee must be paid by a video service provider directly to the local government in legal tender of the United States or in a check, draft or note that is payable in legal tender of the United States.

5. A video service provider may:

(a) Pass the franchise fee through to and collect the franchise fee from its subscribers within the jurisdiction of the local government based on the gross revenue received from each such subscriber; and

(b) Designate the amount of the franchise fee collected from each subscriber as a separate line item on the subscriber's bill.

6. Except as otherwise provided in subsection 7, the franchise fee authorized by this section:

(a) Is the only fee, tax, assessment or other charge that a local government may impose on a video service provider for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; and

(b) Is in lieu of any other fee, tax, assessment or charge that may be imposed by a local government on a video service provider for its occupation or use of any public right-of-way or highway.

7. This section does not restrict the right of a local government to impose on a video service provider:

(a) The fees authorized by subsection 5 of section 45 of this act; and

(b) Any generally applicable and nondiscriminatory fees, ad valorem taxes, sales taxes or other taxes that are lawfully imposed on other businesses within the jurisdiction of the local government.

Sec. 47. *1. Not more than once every 3 years, a local government may, upon reasonable written notice, review and audit the business records of a video service provider to the extent necessary to ensure payment of a franchise fee pursuant to this chapter. If the results of such a review and audit identify an underpayment of the franchise fee in an amount that requires corrective action, the local government may perform a subsequent compliance review and audit to determine whether the video service provider has corrected the underpayment of the franchise fee. The compliance review and audit must be performed not later than 12 months after the date on which the results of the initial review and audit are submitted to the local government.*

2. The local government and the video service provider shall each pay its own costs and fees relating to each review and audit performed pursuant to subsection 1, except that if the video service provider elects to have the local government review and audit the requested business records of the video service provider at a location outside the territorial boundaries of the local government, the video service provider shall pay the per diem allowances and travel expenses incurred by the local government to perform the review and audit at that location.

3. A person who performs a review and audit pursuant to subsection 1 may not receive compensation that is based, in whole or in part, on:

(a) Finding a particular result; or

(b) The amount of any underpayment of the franchise fee that is identified as a result of the review and audit.

4. Any action to recover a disputed underpayment of a franchise fee from a video service provider must be commenced and prosecuted by the Attorney General on behalf of the affected local governments.

5. A video service provider may bring an action against a local government to recover a disputed overpayment of a franchise fee to the local government.

6. Any action to recover a disputed underpayment or overpayment of a franchise fee must be commenced in a district court not later than 4 years after the last day of the tax year to which the disputed underpayment or overpayment relates.

7. Each party shall pay its own costs and attorney's fees in commencing and prosecuting any action involving a disputed underpayment or overpayment of a franchise fee.

Sec. 48. *As used in sections 48 to 59, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 49 to 53, inclusive, have the meanings ascribed to them in those sections.*

Sec. 49. *"Hub office" means the facility and related equipment located within a video service network at which video programming is received directly or indirectly from national or international content providers or broadcast networks and combined with local programming and channels for signal distribution to subscribers through central offices and related transmission or transport facilities.*

Sec. 50. *"Locally produced video programming" means video programming produced for a service area by:*

1. One or more natural persons who reside within the service area; or

2. Any local government, educational institution or other public or nonprofit private entity located within the service area.

Sec. 51. *"Nonrepeat locally produced video programming" includes, without limitation, the first three videocastings of an official meeting of a local government.*

Sec. 52. *"PEG access channel" means a channel that videocasts PEG access programming.*

Sec. 53. *"PEG access programming" means noncommercial public, educational and governmental video programming or the capacity for the transmission of such programming.*

Sec. 54. *For the purposes of sections 48 to 59, inclusive, of this act, a PEG access channel shall be deemed to be "substantially utilized" if at least 12 hours of PEG access programming, excluding any alpha-numeric programming, is videocast on the PEG access channel each calendar day and at least 80 percent of the PEG access programming on each calendar day is nonrepeat locally produced video programming.*

Sec. 54.5. *1. Except as otherwise provided in subsection 2, the provisions of sections 48 to 59, inclusive, of this act do not apply to any existing PEG access channel in service on the effective date of this act.*

2. The provisions of sections 48 to 59, inclusive, of this act do not prevent a video service provider from changing the channel number assigned to any PEG access channel, including, without limitation, any existing PEG access channel in service on the effective date of this act. If a video service provider intends to change the channel number assigned to any PEG access channel, the provider:

(a) Shall use good faith efforts to provide the affected local government with written notice of the change, to the extent reasonably practicable, at least 120 days before the date on which the change is to become effective; and

(b) Shall not provide such notice less than 30 days before the date on which the change is to become effective.

Sec. 55. *Except as otherwise provided in sections 48 to 59, inclusive, of this act, a holder of a certificate is not required to:*

1. Provide any network or channel capacity or free or discounted cable service or other service to any governmental entity or school, library or other public building; or

2. Furnish any funds, services, programming, facilities, staffing or equipment related to the use of PEG access channels or the production or videocasting of PEG access programming.

Sec. 56. *1. Not sooner than 12 months after the date on which an incumbent cable operator obtains a certificate of authority, the incumbent cable operator may cease providing any network or channel capacity or free or discounted cable service or other service to any governmental entity or school, library or other public building.*

2. If an incumbent cable operator ceases to provide network or channel capacity to a governmental entity, the incumbent cable operator may reclaim for its own purposes the network or channel capacity that was used by the governmental entity unless:

(a) The governmental entity uses the capacity for PEG access programming pursuant to sections 48 to 59, inclusive, of this act; or

(b) The incumbent cable operator and the governmental entity enter into a commercial agreement regarding the rates, terms and conditions for the governmental entity to continue using the network or channel capacity.

Sec. 57. *1. On or after the date on which a holder of a certificate first provides video service to at least one subscriber within the service area of a local government, the local government may request that the holder provide capacity for PEG access programming on its video service network on any service tier viewed by more than 50 percent of the subscribers in that service area. Within a reasonable period of not less than 120 days after the date on which the local government submits its request, the holder shall provide the local government with such capacity for PEG access programming subject to the provisions of sections 48 to 59, inclusive, of this act.*

2. If a video service provider did not provide capacity for PEG access programming to a local government while operating pursuant to a local franchise, the video service provider shall, after obtaining a certificate of authority, provide capacity for PEG access programming to the local government upon a request made by the local government pursuant to this section.

Sec. 58. *1. A local government that requests capacity for PEG access programming may require a holder of a certificate to designate:*

(a) Not more than two PEG access channels, if the population within the jurisdiction of the local government is less than 50,000.

(b) Not more than three PEG access channels, if the population within the jurisdiction of the local government is 50,000 or more.

2. The number of PEG access channels set forth in subsection 1 constitutes the total number of PEG access channels that the holder may be required to designate on any single video service network utilizing a single headend or hub office, or on all commonly owned video service networks that share a common headend or hub office, regardless of the number of local governments served from that headend or hub office. If more than one local government is served by a single or common headend or hub office, the populations within the jurisdictions of all those local governments must be aggregated to determine the total number of PEG access channels under subsection 1.

3. When a local government submits its request for capacity for PEG access programming, the local government must submit information which establishes that each PEG access channel it has requested will be substantially utilized. If one or more of the PEG access channels available under subsection 1 are being used at the headend or hub office when the local government submits its request, the holder is not required to make any of the remaining PEG access channels available to the local government unless the local government submits information which establishes that all existing PEG access channels at the headend or hub office are being substantially utilized.

4. Except as otherwise provided in subsection 5, if a local government does not substantially utilize a PEG access channel made available to it pursuant this section, the holder may reclaim the channel capacity for its own purposes. After reclaiming the channel capacity, if the local government makes a request for restoration of the PEG access channel and submits to the holder information which establishes that the PEG access channel will be substantially utilized, the holder shall restore the PEG access channel to the local government unless, when the request is submitted to the holder, the maximum number of PEG access channels available under subsection 1 are being used at the headend or hub office which serves the local government. If the restoration can be made within the limits of subsection 1, the holder shall restore the PEG access channel to the local government within a reasonable period of not less than 120 days after the date on which the request is submitted to the holder.

5. The provisions of subsection 4 do not apply to the first PEG access channel which is made available to a local government that does not have a PEG access channel in service on the effective date of this act.

Sec. 59. *1. A local government receiving the benefit of a PEG access channel, or its designee, is responsible for producing the programming of that channel and for providing that programming to the holder of a*

certificate. The holder is responsible only for the transmission of the programming to subscribers.

2. A local government, or its designee, shall provide to the holder all programming for a PEG access channel in a manner or form that is:

(a) Capable of being accepted and transmitted by the holder over its video service network without alteration or change in the content or transmission signal; and

(b) Compatible with the technology or protocol utilized by the holder to deliver its video service.

3. A local government shall:

(a) Make the programming for each PEG access channel available in a nondiscriminatory manner to all holders or incumbent cable operators providing video service in the service area of the local government.

(b) Provide all facilities necessary for connectivity to a single PEG access channel distribution point in the service area of the local government, except that the first 200 feet extending from the video service network for the connectivity is the responsibility of the holder.

4. Where necessary and technically feasible, holders or incumbent cable operators shall use reasonable efforts to interconnect their video service networks for the purpose of exchanging PEG access channel programming on mutually acceptable rates, terms and conditions. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable methods of connection. Holders and incumbent cable operators shall negotiate interconnection in good faith. The person requesting interconnection is responsible for any costs, including, without limitation, signal transmission from the origination point to the point of interconnection.

Sec. 60. *1. A video service provider or a local government may file with the Bureau of Consumer Protection ~~[in the Office of the Attorney General]~~ a written complaint alleging a violation of the provisions of this chapter.*

2. Upon a written complaint filed by a video service provider or a local government pursuant to this section, the ~~[Attorney General]~~ Consumer's Advocate may commence in a district court an action to enforce the provisions of this chapter and to seek ~~[injunctive]~~ equitable or declaratory relief.

3. If such an action is commenced against a video service provider and the district court determines that the provider has violated any provision of this chapter, the court shall issue an order to the provider directing the provider to take corrective action within a specified reasonable period and providing for such other ~~[injunctive]~~ equitable or declaratory relief as the court finds necessary, including, without limitation, suspending the certificate of authority held by the video service provider.

4. If the district court orders equitable or declaratory relief in an action brought by the Consumer's Advocate pursuant to this section, the court shall award the Consumer's Advocate, in an amount approved by the court,

reasonable attorney's fees and costs incurred by the Consumer's Advocate in bringing the action.

5. The provisions of this section do not ~~*[apply]*~~ *:*

(a) Apply to any action authorized pursuant to NRS 711.265 to 711.290, inclusive, or section 47 of this act.

(b) Prevent the Bureau of Consumer Protection from enforcing any applicable provisions of chapter 598 of NRS against a video service provider.

6. As used in this section:

(a) "Bureau of Consumer Protection" means the Bureau of Consumer Protection in the Office of the Attorney General.

(b) "Consumer's Advocate" means the Consumer's Advocate of the Bureau of Consumer Protection.

Sec. 61. NRS 711.020 is hereby amended to read as follows:

711.020 [The words and phrases] *As* used in this chapter ~~[have the meanings ascribed to them]~~ *, unless the context otherwise requires, the words and terms defined* in NRS 711.030 to 711.074, inclusive, ~~[unless a different meaning clearly appears in the context.]~~ *and sections 3 to 27, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 62. NRS 711.030 is hereby amended to read as follows:

711.030 *1.* "Community antenna television company" means any person ~~[or organization which]~~ *who* owns, controls, operates or manages a community antenna television system . ~~[, except that the definition]~~

2. The term does not include:

~~[1. A telephone, telegraph]~~

(a) A telecommunication provider or electric utility regulated by the Public Utilities Commission of Nevada where the *telecommunication provider or electric* utility merely leases or rents to a community antenna television company wires or cables for the redistribution of television signals to or toward subscribers of that company; or

~~[2. A telephone or telegraph utility]~~

(b) A telecommunication provider regulated by the Public Utilities Commission of Nevada where the ~~[utility]~~ *telecommunication provider* merely provides channels of communication under published tariffs filed with that Commission to a community antenna television company for the redistribution of television signals to or toward subscribers of that company.

Sec. 63. NRS 711.040 is hereby amended to read as follows:

711.040 1. "Community antenna television system" means any facility *, or any component thereof, which is:*

(a) Located within this State ~~[which is constructed]~~ *;*

(b) Constructed in whole or in part in, on, under or over any *public right-of-way or* highway ~~[or other public place and is operated]~~ *; and*

(c) Operated to perform for hire the service of:

~~[(a)]~~ *(1)* Receiving and amplifying the signals broadcast by one or more television stations or provided for public, educational or governmental

purposes and redistributing those signals by wire, cable or other means of closed transmission; or

[(b)] *(2)* Providing two-way interactive services by wire, cable or other means of closed transmission, including, without limitation, Internet services, intranet services and electronic mail,

➥ to members of the public who subscribe to the service.

2. [Such a system] *The term* does not include any system which serves:

(a) Fewer than 50 subscribers; or

(b) Only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of those dwellings , if the buildings are separated by not more than one public [street or] right-of-way [.] *or highway.*

3. As used in this section, "apartment dwelling" does not include a hotel, motel, condominium, town house or other similar dwelling.

Sec. 64. NRS 711.060 is hereby amended to read as follows:

711.060 "Facility" means all real property, antennae, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a [community antenna television company] *video service provider* to provide service to its subscribers.

Sec. 65. NRS 711.074 is hereby amended to read as follows:

711.074 *1.* "Local government" means any city or county . [which has the power to grant a franchise under NRS 711.190.]

2. The term includes, without limitation:

(a) Any entity or agency that is directly or indirectly controlled by any city or county; and

(b) Any entity or agency that is created by joint action or any interlocal or cooperative agreement of two or more cities or counties, or any combination thereof.

Sec. 66. NRS 711.175 is hereby amended to read as follows:

711.175 1. Except as otherwise provided in subsection 2 and NRS 318.1192 *:* [, 318.1193 and 318.1194:]

(a) The governing body of a county whose population is 50,000 or more, and any entity or agency that is directly or indirectly controlled by such a county, shall not sell [the services of a community antenna television system] *video service* to the general public.

(b) The governing body of a city whose population is 25,000 or more, and any entity or agency that is directly or indirectly controlled by such a city, shall not sell [the services of a community antenna television system] *video service* to the general public.

2. If the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by such a county or city, was selling [the services of a community antenna television system] *video service* to the general public on April 1, 2003, it may continue to sell [the services of a community antenna television system] *video service* to the general public after that date, regardless of the population of the county or city.

Sec. 67. NRS 711.178 is hereby amended to read as follows:

711.178 1. If the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~[the services of a community antenna television system]~~ *video service* to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~[community antenna television system]~~ *video service network* in any area outside its territorial boundaries unless it:

(a) Obtains a ~~[franchise from the appropriate governing body pursuant to NRS 711.190]~~ *certificate of authority* for that portion of the ~~[community antenna television system]~~ *video service network* which it constructs, owns, manages or operates outside its territorial boundaries; and

(b) Complies with the same federal, state and local requirements that apply to a privately held ~~[community antenna television company]~~ *video service provider* with regard to that portion of the ~~[community antenna television system]~~ *video service network* which it constructs, owns, manages or operates outside its territorial boundaries.

2. ~~[On and after October 1, 2003, if]~~ *If* the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~[the services of a community antenna television system]~~ *video service* to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~[community antenna television system]~~ *video service network* in any area within its territorial boundaries which is governed by another governing body and which is served by one or more privately held ~~[community antenna television companies]~~ *video service providers* unless it:

(a) Obtains a ~~[franchise from the other governing body pursuant to NRS 711.190 or enters into an interlocal agreement with the other governing body;]~~ *certificate of authority for that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;*

(b) Is ~~*[Except as otherwise provided in section 29.5 of this act, is]*~~ required by the ~~[franchise or interlocal agreement]~~ *certificate of authority* to comply with the same *federal, state and local* requirements that apply to the privately held ~~[community antenna television companies;]~~ *video service providers with regard to that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;* and

(c) Is prohibited by the ~~[franchise or interlocal agreement]~~ *certificate of authority* from providing the services of the ~~[community antenna television system,]~~ *video service provider,* free of charge, to any governmental officer or employee for his personal or household use.

3. The provisions of this section do not require the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by the county or city, to obtain a certificate of authority for a service area if

it is providing video service as an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within that service area pursuant to the local franchise.

Sec. 68. NRS 711.240 is hereby amended to read as follows:

711.240 1. Except with respect to reasonable promotional activities, a ~~[person]~~ *video service provider* shall not advertise, offer to provide or provide any *video* service to subscribers ~~[of television services]~~ at a rate, including any rebate, less than the cost to the ~~[company]~~ *video service provider* to provide ~~[the service which is advertised, offered or provided]~~ *that service* with the intent to:

(a) Impair fair competition or restrain trade among ~~[companies]~~ *video service providers* which provide ~~[services]~~ *video service* in the same area; or

(b) Create a monopoly.

2. For the purposes of this section, "cost" means the expense of doing business including, without limitation, expenses for labor, rent, depreciation, interest, maintenance, delivery of the *video* service, franchise fees, taxes, insurance and advertising.

3. ~~[A community antenna television company may offer any telecommunication or related services which are offered in the same area by a telephone company, pursuant to chapter 704 of NRS and regulations approved by the Public Utilities Commission of Nevada for providers of similar services. A community antenna television company shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing telecommunication or related services which are subject to regulation by the Public Utilities Commission of Nevada.~~

~~4.]~~ A violation of subsection 1 constitutes a prohibited act under NRS 598A.060. The Attorney General and any other person may exercise the powers conferred by that chapter to prevent, remedy or punish such a violation. The provisions of chapter 598A of NRS apply to any such violation.

Sec. 69. NRS 711.255 is hereby amended to read as follows:

711.255 1. A landlord shall not:

(a) Interfere with the receipt of service by a tenant from a ~~[community antenna television company]~~ *video service provider* or discriminate against a tenant for receiving ~~[such a company's service.]~~ *service from a video service provider.*

(b) Except as otherwise provided in subsection 3, demand or accept payment of any fee, charge or valuable consideration from a ~~[community antenna television company]~~ *video service provider* or a tenant in exchange for granting access to the ~~[community antenna television company]~~ *provider* to provide ~~[its services]~~ *service* to the tenant.

2. A ~~[community antenna television company]~~ *video service provider* which desires to provide ~~[such services]~~ *service* to a tenant shall give 30 days' written notice of that desire to the landlord before the ~~[company]~~

provider takes any action to provide that service. Before authorizing the receipt of such service a landlord may:

(a) Take such reasonable steps as are necessary to ensure that the safety, function and appearance of the premises and the convenience and safety of persons on the property are not adversely affected by the installation, construction, operation or maintenance of the facilities necessary to provide the service, and is entitled to be reimbursed by the ~~[community antenna television company]~~ *provider* for the reasonable expenses incurred;

(b) Require that the cost of the installation, construction, operation, maintenance or removal of the necessary facilities be borne by the ~~[community antenna television company;]~~ *provider;* and

(c) Require the ~~[community antenna television company]~~ *provider* to provide evidence that the ~~[company]~~ *provider* will indemnify the landlord for any damage caused by the installation, construction, operation, maintenance or removal of the facilities.

3. A landlord is entitled to receive reasonable compensation for any direct adverse economic effect resulting from granting access to a ~~[community antenna television company.]~~ *video service provider.* There is a rebuttable presumption that the direct adverse economic effect resulting from granting access to the real property of the landlord is $1,000 or $1 for each dwelling unit thereon, whichever sum is greater. If a landlord intends to require the payment of such compensation in an amount exceeding that sum, the landlord shall notify the ~~[community antenna television company]~~ *provider* in writing of that intention. If the ~~[company]~~ *provider* does not receive such a notice within 20 days after the landlord is notified by the ~~[company]~~ *provider* that a tenant has requested the ~~[company]~~ *provider* to provide ~~[its services]~~ *service* to the tenant on the landlord's premises, the landlord may not require compensation for access to that tenant's dwelling unit in an amount exceeding $1,000. If within 30 days after receiving a landlord's request for compensation in an amount exceeding $1,000, the ~~[company]~~ *provider* has not agreed to pay the requested amount or an amount mutually acceptable to the ~~[company]~~ *provider* and the landlord, the landlord may petition a court of competent jurisdiction to set a reasonable amount of compensation for the damage of or taking of his real property. Such an action must be filed within 6 months after the date the ~~[company]~~ *provider* completes construction.

4. In establishing the amount which will constitute reasonable compensation for any damage or taking *claim* by a landlord in excess of the sum established by rebuttable presumption pursuant to subsection 3, the court shall consider:

(a) The extent to which the ~~[community antenna television company's]~~ facilities *of the video service provider* physically occupy the premises;

(b) The actual long-term damage which the ~~[company's]~~ facilities *of the video service provider* may cause to the premises;

(c) The extent to which the ~~[company's]~~ facilities *of the video service provider* would interfere with the normal use and enjoyment of the premises; and

(d) The diminution or enhancement in value of the premises resulting from the availability of the service.

~~[➥ The court may also award to the prevailing party reasonable attorney's fees.]~~

5. The ~~[company's]~~ right *of a video service provider* to construct, install or repair its facilities and maintain its services within and upon the landlord's premises is not affected or impaired because the landlord requests compensation in an amount exceeding the sum established by rebuttable presumption pursuant to subsection 3, or files an action to assert a specific claim against the ~~[company.]~~ *provider*.

6. A ~~[community antenna television company]~~ *video service provider* shall not offer a special discount or other benefit to a particular group of tenants as an incentive *for those tenants* to request ~~[the company's services,]~~ *service from the provider*, unless the same discount or benefit is offered generally in the county.

7. ~~[The community antenna television company and the]~~ *A video service provider and a* landlord shall negotiate in good faith for the purchase of the landlord's existing cable facilities rather than for the construction of new facilities on the premises.

8. As used in this section, "landlord" means an owner of real property, or his authorized representative, who provides a dwelling unit on the real property for occupancy by another for valuable consideration. The term includes, without limitation, the lessor of a mobile home lot and the lessor or operator of a mobile home park.

Sec. 70. NRS 711.265 is hereby amended to read as follows:

711.265 1. Any person who:

(a) By the attachment of a ground wire, or by any other contrivance, willfully destroys the insulation of a ~~[telecommunications line of a community antenna television company,]~~ *wire, cable, conduit, line or similar facility of a video service provider* or interrupts the transmission of the electric current through ~~[the line;]~~ *such a wire, cable, conduit, line or similar facility;*

(b) Willfully interferes with the use of ~~[any such line,]~~ *such a wire, cable, conduit, line or similar facility* or obstructs or postpones the transmission of any message *or signal* over ~~[the line;]~~ *such a wire, cable, conduit, line or similar facility;* or

(c) Procures or advises any such injury, interference or obstruction,

➥ is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of any property damaged, altered, removed or destroyed and in no event less than a misdemeanor.

2. Any person who violates the provisions of subsection 1 is, in addition to the penalty set forth in that subsection, liable to the ~~[community antenna~~

~~television company;~~ *video service provider* injured by such conduct in a civil action for all damages occasioned thereby.

Sec. 71. NRS 711.270 is hereby amended to read as follows:

711.270 1. It is unlawful for a person knowingly , ~~[and]~~ with the intent to intercept or receive a program or other service provided by a ~~[community antenna television company,]~~ *video service provider and* without the authorization of the ~~[company,]~~ *provider,* to:

(a) Make a connection or attach a device to a line or other ~~[component of a community antenna television company;]~~ *facility of the provider;*

(b) Purchase or possess a device or kit designed to intercept or receive a program or other service provided by the ~~[community antenna television company;]~~ *provider;*

(c) Make or maintain a modification to a device installed by or with the authorization of ~~[a community antenna television company]~~ *the provider* to intercept or receive a program or other service provided by the ~~[community antenna television company;]~~ *provider;* or

(d) Manufacture, import, distribute, advertise, sell, lease, offer to sell or lease, or possess with the intent to sell or lease a device designed to decode, descramble, intercept or otherwise make intelligible a signal encoded by ~~[a community antenna television company.]~~ *the provider.*

2. Unless a greater penalty is provided in NRS 711.265:

(a) Except as otherwise provided in paragraph (b), a person who violates paragraph (a), (b) or (c) of subsection 1 is guilty of a misdemeanor.

(b) A person who violates paragraph (a), (b) or (c) of subsection 1 for commercial advantage, whether direct or indirect, is guilty of a gross misdemeanor.

(c) A person who violates paragraph (d) of subsection 1:

(1) If the violation involves nine or fewer devices, is guilty of a gross misdemeanor.

(2) If the violation involves 10 or more devices, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 72. NRS 711.280 is hereby amended to read as follows:

711.280 1. A person who violates paragraph (a), (b) or (c) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the ~~[community antenna television company]~~ *video service provider* injured by the conduct for $3,500 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

2. A person who violates paragraph (d) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the ~~[community antenna television company]~~ *video service provider* injured by the conduct for $5,000 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

3. In any action brought pursuant to this section, proof that any of the acts prohibited in subsection 1 were committed on or about the premises

occupied by the defendant is prima facie evidence that such acts were committed by the defendant.

4. ~~[An owner or operator of a community antenna television company]~~ *A video service provider* may bring an action to enjoin any violation of NRS 711.270.

Sec. 73. NRS 37.010 is hereby amended to read as follows:

37.010 Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public purposes:

1. Federal activities. All public purposes authorized by the Government of the United States.

2. State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

3. County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

4. Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

5. Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Mining, smelting and related activities. Mining, smelting and related activities as follows:

(a) Mining and related activities, which are recognized as the paramount interest of this State.

(b) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the working, reclamation or dewatering of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipelines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places

for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

7. Byroads. Byroads leading from highways to residences and farms.

8. Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

9. Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

10. Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

11. Cemeteries, public parks. Cemeteries or public parks.

12. Pipelines of beet sugar industry. Pipelines to conduct any liquids connected with the manufacture of beet sugar.

13. Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

14. Aviation. Airports, facilities for air navigation and aerial rights-of-way.

15. Monorails. Monorails and any other overhead or underground system used for public transportation.

16. ~~[Community antenna television companies. Community antenna television companies which have been granted a franchise from the governing body of the jurisdictions in which they provide services.]~~ *Video service providers. Video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network.* The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

(a) It creates no substantial detriment to the service provided by the utility;

(b) It causes no irreparable injury to the utility; and

(c) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

17. Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

Sec. 74. NRS 118B.0195 is hereby amended to read as follows:

118B.0195 "Utility" includes ~~[a]~~ *:*

1. *A* public utility which provides:

~~[1.]~~ *(a)* Electricity;

~~[2.]~~ *(b)* Natural gas;

~~[3.]~~ *(c)* Liquefied petroleum gas;

~~[4. Cable television;~~

~~5.~~ *(d)* Sewer services;

~~[6.]~~ *(e)* Garbage collection; or

~~[7.]~~ *(f)* Water.

2. A video service provider which provides video service pursuant to chapter 711 of NRS.

Sec. 75. NRS 205.0829 is hereby amended to read as follows:

205.0829 "Services" includes labor, professional services, transportation, cable television ~~[,]~~ *or other video service,* telephone, gas or electricity services, accommodations in hotels, restaurants, leased premises or elsewhere, admissions to exhibitions and the use of vehicles or other movable property.

Sec. 76. NRS 205.4743 is hereby amended to read as follows:

205.4743 1. "Information service" means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound by means of any component, device, equipment, system or network, including, without limitation, by means of:

(a) A computer, computer system, computer network, modem or scanner.

(b) A telephone, cellular phone, satellite phone, pager, personal communications device or facsimile machine.

(c) Any type of transmitter or receiver.

(d) Any other component, device, equipment, system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.

2. The term does not include ~~[a community antenna television company,]~~ *video service,* as defined in ~~[NRS 711.030.]~~ *section 25 of this act.*

Sec. 76.3. *NRS 228.340 is hereby amended to read as follows:*

228.340 1. Except as otherwise provided by NRS 598A.260, all money collected by the Bureau of Consumer Protection pursuant to NRS 704.033 *and chapter 711 of NRS* and *pursuant* to those provisions *of NRS* relating to private investigators and unfair trade practices must be deposited with the State Treasurer for credit to the Account for the Bureau of Consumer Protection.

2. Money in the Account may be used only to defray the costs of maintaining the Office of the Consumer's Advocate and for carrying out the provisions of NRS 228.300 to 228.390, inclusive.

3. All claims against the Account must be paid as other claims against the State are paid.

Sec. 76.5. NRS 228.380 is hereby amended to read as follows:

228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C ~~[and]~~ , 599B *and 711* of NRS.

2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in ~~[chapters]~~ *:*

(a) Chapters 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities ~~[~~.

~~2.]~~ *; or*

(b) Chapter 711 of NRS.

3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

~~[3.]~~ *4.* The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.

Sec. 77. NRS 244.186 is hereby amended to read as follows:

244.186 1. If the governing body of a county is authorized pursuant to NRS 711.175 to sell video ~~[programming services]~~ *service* to the general public over a ~~[community antenna television system,]~~ *video service network,* the governing body, and any entity or agency that is directly or indirectly controlled by the county, shall not do any of the following:

(a) Sell such video ~~[programming services]~~ *service* at a price that is less than the actual cost of the video ~~[programming services]~~ *service* or sell a bundle of services containing such video ~~[programming services]~~ *service* at a price that is less than the actual cost of the bundle of services.

(b) Use any money from the county general fund for the provision of such video ~~[programming services]~~ *service* over its ~~[community antenna television system.]~~ *video service network.*

(c) Use its rights-of-way, its property or any special power it may possess by virtue of its status as a government or a government-owned utility to:

(1) Create a preference or advantage for its ~~[community antenna television system;]~~ *video service network;* or

(2) Impose any discriminatory burden on any privately held ~~[community antenna television company.]~~ *video service provider.*

2. The provisions of this section must be enforced in the manner set forth in paragraph (c) of subsection 4 of NRS 354.624 and paragraph (c) of subsection 5 of NRS 354.624.

3. The provisions of this section do not create an exclusive remedy and do not abrogate or limit any other action or remedy that is available to the governing body or a privately held ~~[community antenna television company]~~ *video service provider* pursuant to any other statute or the common law.

4. As used in this section:

(a) ~~["Community antenna television company"]~~ *"Video service"* has the meaning ascribed to it in ~~[NRS 711.030.~~

~~(b) "Community antenna television system" has the meaning ascribed to it in NRS 711.040.~~

~~(c) "Video programming services" means services which are provided over a community antenna television system and which contain:~~

~~(1) Programming provided by a television broadcast station; or~~

~~(2) Programming that is generally considered comparable to programming provided by a television broadcast station.]~~ *section 25 of this act.*

(b) "Video service network" has the meaning ascribed to it in section 26 of this act.

(c) "Video service provider" has the meaning ascribed to it in section 27 of this act.

Sec. 78. NRS 271.204 is hereby amended to read as follows:

271.204 "Service facilities" means any works or improvements used or useful in providing:

1. Electric or communication service; or

2. Service from a ~~[community antenna television system]~~ *video service network*, as that term is defined in ~~[NRS 711.040,]~~ *section 26 of this act,*

➥ including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances.

Sec. 79. NRS 271.2045 is hereby amended to read as follows:

271.2045 "Service provider" means:

1. A person or corporation subject to the jurisdiction of the Public Utilities Commission of Nevada that provides electric or communication service to the public; and

2. A ~~[community antenna television company]~~ *video service provider*, as that term is defined in ~~[NRS 711.030]~~ *section 27 of this act,* that provides service from a ~~[community antenna television system,]~~ *video service network,*

➥ by means of service facilities.

Sec. 80. NRS 271.850 is hereby amended to read as follows:

271.850 1. The service facilities within the boundaries of each lot within a district to finance an underground conversion project established pursuant to NRS 271.800 must be placed underground at the same time as or after the underground system in private easements and public places is placed underground. The service provider involved, directly or through a contractor, shall, in accordance with the rules and regulations of the service provider, but subject to the regulations of the Public Utilities Commission of Nevada and any other applicable laws, ordinances, rules or regulations of the municipality or any other public agency under the police power, convert to underground its facilities on any such lot:

(a) For service facilities that provide electric service, up to the service entrance.

(b) For service facilities that provide communication service or service from a ~~[community antenna television system]~~ *video service network*, as that

term is defined in ~~[NRS 711.040,]~~ *section 26 of this act*, up to the connection point within the house or structure.

2. All costs or expenses of conversion must be included in the cost on which the cost of the underground conversion for that property is calculated.

3. As used in this section, "lot" includes any portion, piece or parcel of land.

Sec. 81. NRS 278.329 is hereby amended to read as follows:

278.329 A governing body or its authorized representative may relieve a person who proposes to divide land pursuant to NRS 278.360 to 278.460, inclusive, or 278.471 to 278.4725, inclusive, from the requirement to dedicate easements to public utilities that provide gas, electric, telecommunications, water and sewer services and any ~~[franchised community antenna television companies]~~ *video service providers* pursuant to paragraph (d) or (e) of subsection 9 of NRS 278.372 or paragraph (c) or (d) of subsection 4 of NRS 278.472 if the person demonstrates to the public body or its authorized representative that there is not an essential nexus to the public purpose for the dedication and the dedication is not roughly proportional in nature and extent to the impact of the proposed development.

Sec. 82. NRS 278.372 is hereby amended to read as follows:

278.372 1. The final map must be clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the final map with permanent black ink.

2. The size of each sheet of the final map must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

3. The scale of the final map must be large enough to show all details clearly. The final map must have a sufficient number of sheets to accomplish this end.

4. Each sheet of the final map must indicate its particular number, the total number of sheets in the final map and its relation to each adjoining sheet.

5. The final map must show all surveyed and mathematical information and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing thereon, including the bearings and distances of straight lines, central angle, radii and arc length for all curves and such information as may be necessary to determine the location of the centers of curves.

6. Each lot must be numbered or lettered.

7. Each street must be named and each block may be numbered or lettered.

8. The exterior boundary of the land included within the subdivision must be indicated by graphic border.

9. The final map must show:

(a) The definite location of the subdivision, particularly its relation to surrounding surveys.

(b) The area of each lot and the total area of the land in the subdivision in the following manner:

(1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or

(2) In square feet if the area is less than 2 acres.

(c) Any roads or easements of access which the owner intends to offer for dedication.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ *video service providers that are authorized pursuant to chapter 711 of NRS* to operate a ~~[community antenna television system]~~ *video service network* in that area.

(e) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

10. The final map for a condominium must also indicate, for the purpose of assessing taxes, whether any garage units, parking spaces or storage units may be conveyed separately from the units within the condominium or are parceled separately from those units. As used in this subsection, "condominium" has the meaning ascribed to it in NRS 116.027.

11. The final map must also satisfy any additional survey and map requirements, including the delineation of Nevada state plane coordinates established pursuant to chapter 327 of NRS, for any corner of the subdivision or any other point prescribed by the local ordinance.

Sec. 83. NRS 278.374 is hereby amended to read as follows:

278.374 1. Except as otherwise provided in subsection 2, a final map presented for filing must include a certificate signed and acknowledged, in the manner provided in NRS 240.1665 or 240.167, by each person who is an owner of the land:

(a) Consenting to the preparation and recordation of the final map.

(b) Offering for dedication that part of the land which the person wishes to dedicate for public use, subject to any reservation contained therein.

(c) Reserving any parcel from dedication.

(d) Granting any permanent easement for utility or ~~[community antenna television cable]~~ *video service network* installation or access, as designated on the final map, together with a statement approving such easement, signed by the public utility, ~~[community antenna television company]~~ *video service provider* or person in whose favor the easement is created or whose services are required.

2. If the map presented for filing is an amended map of a common-interest community, the certificate need only be signed and

acknowledged by a person authorized to record the map under chapter 116 of NRS.

3. A final map of a common-interest community presented for recording and, if required by local ordinance, a final map of any other subdivision presented for recording must include:

(a) A report from a title company in which the title company certifies that it has issued a guarantee for the benefit of the local government which lists the names of:

(1) Each owner of record of the land to be divided; and

(2) Each holder of record of a security interest in the land to be divided, if the security interest was created by a mortgage or a deed of trust.

➥ The guarantee accompanying a final map of a common-interest community must also show that there are no liens of record against the common-interest community or any part thereof for delinquent state, county, municipal, federal or local taxes or assessments collected as taxes or special assessments.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a), to the preparation and recordation of the final map. A holder of record may consent by signing:

(1) The final map; or

(2) A separate document that is filed with the final map and declares his consent to the division of land.

4. For the purpose of this section, the following shall be deemed not to be an interest in land:

(a) A lien for taxes or special assessments.

(b) A trust interest under a bond indenture.

5. As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of NRS 692A.120.

Sec. 84. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; and

(b) Pay a filing fee of no more than $750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ *video service providers that are authorized pursuant to chapter 711 of NRS* to operate a ~~[community antenna television system]~~ *video service network* in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

Sec. 85. NRS 278.472 is hereby amended to read as follows:

278.472 1. After the planning commission or the governing body or its authorized representative has approved the tentative map or waived the requirement of its filing, or 60 days after the date of its filing, whichever is earlier, the person who proposes to divide the land may file a final map of the division with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

2. This map must be:

(a) Entitled "Map of Division into Large Parcels."

(b) Filed with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission not later than 1 year after the date that the tentative map was first filed with the planning commission or the governing body or its authorized representative or that the requirement of its filing was waived.

(c) Prepared by a professional land surveyor.

(d) Based upon an actual survey by the preparer and show the date of the survey and contain the certificate of the surveyor required pursuant to NRS 278.375.

(e) Clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for this purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink.

(f) Twenty-four by 32 inches in size with a marginal line drawn completely around each sheet, leaving an entirely blank margin of 1 inch at

the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

(g) Of scale large enough to show clearly all details.

3. The particular number of the sheet and the total number of sheets comprising the map must be stated on each of the sheets, and its relation to each adjoining sheet must be clearly shown.

4. This map must show and define:

(a) All subdivision lots by the number and actual acreage of each lot.

(b) Any roads or easements of access which exist and which the owner intends to offer for dedication, any roads or easements of access which are shown on the applicable master plan and any roads or easements of access which are specially required by the planning commission or the governing body or its authorized representative.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ *video service providers that are authorized pursuant to chapter 711 of NRS* to operate a ~~[community antenna television system]~~ *video service network* in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

Sec. 86. NRS 318.1192 is hereby amended to read as follows:

318.1192 In the case of a district created wholly or in part for acquiring television maintenance facilities, the board shall have power to:

1. Acquire television broadcast, transmission and relay improvements ~~[.]~~ *and construct and operate a video service network pursuant to chapter 711 of NRS.*

2. Levy special assessments against specially benefited real property on which are located television receivers operated within the district and able to receive television broadcasts supplied by the district.

3. Fix tolls, rates and other service or use charges for services furnished by the district or facilities of the district, including, without limitation, any one, all or any combination of the following:

(a) Flat rate charges;

(b) Charges classified by the number of receivers;

(c) Charges classified by the value of property served by television receivers;

(d) Charges classified by the character of the property served by television receivers;

(e) Minimum charges;

(f) Stand-by charges; or

(g) Other charges based on the availability of service.

4. The district shall not have the power in connection with the basic power stated in this section to borrow money which loan is evidenced by the issuance of any general obligation bonds or other general obligations of the district.

Sec. 87. NRS 354.59881 is hereby amended to read as follows:

354.59881 As used in NRS 354.59881 to 354.59889, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[354.598811]~~ *354.598812* to 354.598818, inclusive, have the meanings ascribed to them in those sections.

Sec. 88. NRS 354.598814 is hereby amended to read as follows:

354.598814 "Fee" means a charge imposed by a city or county upon a public utility for a business license, franchise or right-of-way over streets or other public areas, except ~~[~~:

~~1. Any]~~ *any* charge paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270 . ~~[; or~~

~~2. A term or condition of a franchise granted by:~~

~~(a) A county whose population is 400,000 or more, or by an incorporated city that is located in whole or in part within such a county, that requires a community antenna television company to provide channels for public, educational or governmental access.~~

~~(b) A county or an incorporated city not specified in paragraph (a) that requires a community antenna television company to provide channels, facilities or equipment for public, educational or governmental access.]~~

Sec. 89. NRS 354.598817 is hereby amended to read as follows:

354.598817 *1.* "Public utility" includes ~~[~~:

~~1. A]~~ *a* person or local government that:

(a) Provides electric energy or gas, whether or not the person or local government is subject to regulation by the Public Utilities Commission of Nevada;

(b) Is a telecommunication carrier as that term is defined in 47 U.S.C. § 153 on July 16, 1997, if the person or local government holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada and derives intrastate revenue from the provision of telecommunication service to retail customers; or

(c) Sells or resells personal wireless services.

2. ~~[A community antenna television company as that term is]~~ *The term does not include a video service provider, as* defined in ~~[NRS 711.030.]~~ *section 27 of this act.*

Sec. 90. NRS 354.598818 is hereby amended to read as follows:

354.598818 "Revenue" does not include:

1. Any proceeds from the interstate sale of natural gas to a provider of electric energy that holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada; *or*

2. Any revenue of a provider of a telecommunication service other than intrastate revenue that the provider collects from retail customers . ~~[; or~~

~~3. The amount deducted from the gross revenue of a community antenna television company pursuant to paragraph (b) of subsection 2 of NRS 711.200.]~~

Sec. 91. NRS 354.5989 is hereby amended to read as follows:

354.5989 1. A local government shall not increase any fee for a business license or adopt a fee for a business license issued for revenue or regulation, or both, except as permitted by this section. This prohibition does not apply to fees:

(a) Imposed by hospitals, county airports, airport authorities, convention authorities, the Las Vegas Valley Water District or the Clark County Sanitation District;

(b) Imposed on public utilities for the privilege of doing business pursuant to a franchise;

(c) *Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;*

(d) For business licenses which are calculated as a fraction or percentage of the gross revenue of the business;

~~[(d)]~~ *(e)* Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182; or

~~[(e)]~~ *(f)* Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

2. The amount of revenue the local government derives or is allowed to derive, whichever is greater, from all fees for business licenses except:

(a) The fees excluded by subsection 1, for the fiscal year ended on June 30, 1991; and

(b) The fees collected for a particular type of business during the immediately preceding fiscal year ending on June 30 that a local government will not collect in the next subsequent fiscal year,

➥ is the base from which the maximum allowable revenue from such fees must be calculated for the next subsequent fiscal year. To the base must be added the sum of the amounts respectively equal to the product of the base multiplied by the percentage increase in the population of the local government added to the percentage increase in the Consumer Price Index for the year ending on December 31 next preceding the year for which the limit is being calculated. The amount so determined becomes the base for computing the allowed increase for each subsequent year.

3. A local government may not increase any fee for a business license which is calculated as a fraction or percentage of the gross revenue of the business if its total revenues from such fees have increased during the preceding fiscal year by more than the increase in the Consumer Price Index during that preceding calendar year. The provisions of this subsection do not apply to a fee ~~[imposed]~~ *:*

(a) Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

(b) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182 ~~[, or regulated]~~ *; or*

(c) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

4. A local government may submit an application to increase its revenue from fees for business licenses beyond the amount allowable pursuant to this section to the Nevada Tax Commission, which may grant the application only if it finds that the rate of a business license of the local government is substantially below that of other local governments in the State.

5. The provisions of this section apply to a business license regardless of the fund to which the revenue from it is assigned. An ordinance or resolution enacted by a local government in violation of the provisions of this section is void.

6. As used in this section, "fee for a business license" does not include a tax imposed on the revenues from the rental of transient lodging.

Sec. 92. NRS 360.825 is hereby amended to read as follows:

360.825 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government acquires from another entity a public utility that provides electric service, natural gas service, telecommunications service or community antenna television *, cable television or other video* service:

(a) The local government shall make payments in lieu of and equal to all state and local taxes and franchise fees from which the local government is exempt but for which the public utility would be liable if the public utility was not owned by a governmental entity; and

(b) The Nevada Tax Commission shall, solely for the purpose set forth in this paragraph, annually determine and apportion the assessed valuation of the property of the public utility. For the purpose of calculating any allocation or apportionment of money for distribution among local governments pursuant to a formula required by state law which is based partially or entirely on the assessed valuation of taxable property:

(1) The property of the public utility shall be deemed to constitute taxable property to the same extent as if the public utility was not owned by a governmental entity; and

(2) To the extent that the property of the public utility is deemed to constitute taxable property pursuant to this paragraph:

(I) The assessed valuation of that property must be included in that calculation as determined and apportioned by the Nevada Tax Commission pursuant to this paragraph; and

(II) The payments required by paragraph (a) in lieu of any taxes that would otherwise be required on the basis of the assessed valuation of that property shall be deemed to constitute payments of those taxes.

2. The payments in lieu of taxes and franchise fees required by subsection 1 are due at the same time and must be collected, accounted for and distributed in the same manner as those taxes and franchise fees would be due, collected, accounted for and distributed if the public utility was not owned by a governmental entity, except that no lien attaches upon any

property or money of the local government by virtue of any failure to make all or any part of those payments. The local government may contest the validity and amount of any payment in lieu of a tax or franchise fee to the same extent as if that payment was a payment of the tax or franchise fee itself. The payments in lieu of taxes and franchise fees must be reduced if and to the extent that such a contest is successful.

3. The provisions of this section do not:

(a) Apply to the acquisition by a local government of a public utility owned by another governmental entity, except a public utility owned by another local government for which any payments in lieu of state or local taxes or franchise fees was required before its acquisition as provided in this section.

(b) Require a local government to make any payments in lieu of taxes or franchise fees to the extent that the making of those payments would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(c) Require a county to duplicate any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 93. NRS 360.830 is hereby amended to read as follows:

360.830 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government:

(a) Acquires from another entity a public utility that provides water service or sewer service; or

(b) Expands facilities for the provision of water service, sewer service, electric service, natural gas service, telecommunications service or community antenna television , *cable television or other video* service, and the expansion results in the local government serving additional retail customers who were, before the expansion, retail customers of a public utility which provided that service,

➥ the local government shall enter into an interlocal agreement with each affected local government to compensate the affected local government each fiscal year, as nearly as practicable, for the amount of any money from state and local taxes and franchise fees and from payments in lieu of those taxes and franchise fees, and for any compensation from a local government pursuant to this section, the affected local government would be entitled to receive but will not receive because of the acquisition of that public utility or expansion of those facilities as provided in this section.

2. An affected local government may waive any or all of the compensation to which it may be entitled pursuant to subsection 1.

3. The provisions of this section do not require a:

(a) Local government to provide any compensation to an affected local government to the extent that the provision of that compensation would cause

a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or expansion of those facilities, or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(b) County to duplicate any compensation an affected local government receives from any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 94. NRS 361.320 is hereby amended to read as follows:

361.320 1. At the regular session of the Nevada Tax Commission commencing on the first Monday in October of each year, the Nevada Tax Commission shall examine the reports filed pursuant to NRS 361.318 and establish the valuation for assessment purposes of any property of an interstate or intercounty nature used directly in the operation of all interstate or intercounty railroad, sleeping car, private car, natural gas transmission and distribution, water, telephone, scheduled and unscheduled air transport, electric light and power companies, and the property of all railway express companies operating on any common or contract carrier in this State. This valuation must not include the value of vehicles as defined in NRS 371.020.

2. Except as otherwise provided in subsections 3, 4 and 7 and NRS 361.323, the Nevada Tax Commission shall establish and fix the valuation of all physical property used directly in the operation of any such business of any such company in this State, as a collective unit. If the company is operating in more than one county, on establishing the unit valuation for the collective property, the Nevada Tax Commission shall then determine the total aggregate mileage operated within the State and within its several counties and apportion the mileage upon a mile-unit valuation basis. The number of miles apportioned to any county are subject to assessment in that county according to the mile-unit valuation established by the Nevada Tax Commission.

3. After establishing the valuation, as a collective unit, of a public utility which generates, transmits or distributes electricity, the Nevada Tax Commission shall segregate the value of any project in this State for the generation of electricity which is not yet put to use. This value must be assessed in the county where the project is located and must be taxed at the same rate as other property.

4. After establishing the valuation, as a collective unit, of an electric light and power company that places a facility into operation on or after July 1, 2003, in a county whose population is less than 100,000, the Nevada Tax Commission shall segregate the value of the facility from the collective unit. This value must be assessed in the county where the facility is located and taxed at the same rate as other property.

5. The Nevada Tax Commission shall adopt formulas and incorporate them in its records, providing the method or methods pursued in fixing and

establishing the taxable value of all property assessed by it. The formulas must be adopted and may be changed from time to time upon its own motion or when made necessary by judicial decisions, but the formulas must in any event show all the elements of value considered by the Nevada Tax Commission in arriving at and fixing the value for any class of property assessed by it. These formulas must take into account, as indicators of value, the company's income and the cost of its assets, but the taxable value may not exceed the cost of replacement as appropriately depreciated.

6. If two or more persons perform separate functions that collectively are needed to deliver electric service to the final customer and the property used in performing the functions would be centrally assessed if owned by one person, the Nevada Tax Commission shall establish its valuation and apportion the valuation among the several counties in the same manner as the valuation of other centrally assessed property. The Nevada Tax Commission shall determine the proportion of the tax levied upon the property by each county according to the valuation of the contribution of each person to the aggregate valuation of the property. This subsection does not apply to a qualifying facility, as defined in 18 C.F.R. § 292.101, which was constructed before July 1, 1997, or to an exempt wholesale generator, as defined in 15 U.S.C. § 79z-5a.

7. A company engaged in a business described in subsection 1 that does not have property of an interstate or intercounty nature must be assessed as provided in subsection 8.

8. All other property, including, without limitation, that of any company engaged in providing commercial mobile radio service, radio or television transmission services or cable television *or other video* services, must be assessed by the county assessors, except as otherwise provided in NRS 361.321 and 362.100 and except that the valuation of land and mobile homes must be established for assessment purposes by the Nevada Tax Commission as provided in NRS 361.325.

9. On or before November 1 of each year, the Department shall forward a tax statement to each private car line company based on the valuation established pursuant to this section and in accordance with the tax levies of the several districts in each county. The company shall remit the ad valorem taxes due on or before December 15 to the Department, which shall allocate the taxes due each county on a mile-unit basis and remit the taxes to the counties no later than January 31. The portion of the taxes which is due the State must be transmitted directly to the State Treasurer. A company which fails to pay the tax within the time required shall pay a penalty of 10 percent of the tax due or $5,000, whichever is greater, in addition to the tax. Any amount paid as a penalty must be deposited in the State General Fund. The Department may, for good cause shown, waive the payment of a penalty pursuant to this subsection. As an alternative to any other method of recovering delinquent taxes provided by this chapter, the Attorney General may bring a civil action in a court of competent jurisdiction to recover

delinquent taxes due pursuant to this subsection in the manner provided in NRS 361.560.

10. For the purposes of this section, an unscheduled air transport company does not include a company that only uses three or fewer fixed-wing aircraft with a weight of less than 12,500 pounds to provide transportation services, if the company elects, in the form and manner prescribed by the Department, to have the property of the company assessed by a county assessor.

11. As used in this section:

(a) "Company" means any person, company, corporation or association engaged in the business described.

(b) "Commercial mobile radio service" has the meaning ascribed to it in 47 C.F.R. § 20.3, as that section existed on January 1, 1998.

Sec. 95. NRS 372.728 is hereby amended to read as follows:

372.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in this State" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in this State.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in this State.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or *other video service network or any* other means of broadcasting to persons located in this State or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in this State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in this State and only secondarily to bordering jurisdictions.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in this State related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in this State of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same person who owns or controls a retailer who maintains a place of business in the same or a similar line of business in this State.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 372.195.

9. A retailer who, pursuant to a contract with the operator of a ~~[system of]~~ cable television *system or other video service network* located in this State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a ~~[system of]~~ cable television *system or other video service network located* in this State.

Sec. 96. NRS 372.734 is hereby amended to read as follows:

372.734 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television , *video* or data signals, including the transmission of news or information by *video or* data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 97. NRS 374.728 is hereby amended to read as follows:

374.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in a county" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in the county.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in the county under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in the county.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or *other video service network or any* other means of broadcasting to persons located in the county or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in the State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in the State

and only secondarily to bordering jurisdictions, and which is disseminated to persons located in the county.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in the county related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in the county of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same persons who own or control a retailer who maintains a place of business in the same or a similar line of business in the county.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 374.200.

9. A retailer who, pursuant to a contract with the operator of a ~~[system of]~~ cable television *system or other video service network* located in the State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a ~~[system of]~~ cable television *system or other video service network located* in the county.

Sec. 98. NRS 374.739 is hereby amended to read as follows:

374.739 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television , *video* or data signals, including the transmission of news or information by *video or* data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 99. NRS 425.393 is hereby amended to read as follows:

425.393 1. The Chief may request the following information to carry out the provisions of this chapter:

(a) The records of the following public officers and state, county and local agencies:

(1) The State Registrar of Vital Statistics;

(2) Agencies responsible for maintaining records relating to state and local taxes and revenue;

(3) Agencies responsible for keeping records concerning real property and personal property for which a title must be obtained;

(4) All boards, commissions and agencies that issue occupational or professional licenses, certificates or permits;

(5) The Secretary of State;

(6) The Employment Security Division of the Department of Employment, Training and Rehabilitation;

(7) Agencies that administer public assistance;

(8) The Department of Motor Vehicles;

(9) The Department of Public Safety;

(10) The Department of Corrections; and

(11) Law enforcement agencies and any other agencies that maintain records of criminal history.

(b) The names and addresses of:

(1) The customers of public utilities and ~~[community antenna television companies;]~~ *video service providers;* and

(2) The employers of the customers described in subparagraph (1).

(c) Information in the possession of financial institutions relating to the assets, liabilities and any other details of the finances of a person.

(d) Information in the possession of a public or private employer relating to the employment, compensation and benefits of a person employed by the employer as an employee or independent contractor.

2. If a person or other entity fails to supply the information requested pursuant to subsection 1, the Administrator may issue a subpoena to compel the person or entity to provide that information. A person or entity who fails to comply with a request made pursuant to subsection 1 is subject to a civil penalty not to exceed $500 for each failure to comply.

3. A disclosure made in good faith pursuant to subsection 1 does not give rise to any action for damages for the disclosure.

Sec. 100. NRS 432.310 is hereby amended to read as follows:

432.310 "Broadcaster" means a radio broadcasting station, cable operator *or other video service provider* or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.

Sec. 101. NRS 455.210 is hereby amended to read as follows:

455.210 The provisions of NRS 455.220 and 455.230 are not applicable to:

1. An employee of a public utility which produces, transmits or delivers electricity, or a public utility which provides communication services, while the employee, in the course of his employment, constructs, modifies, operates or maintains:

(a) Electrical systems;

(b) Communication systems; or

(c) Overhead electrical or communication circuits or conductors, or the structures supporting them.

2. An employee of a ~~[cable antenna television system]~~ *video service provider operating pursuant to chapter 711 of NRS* or a business which provides communication services, while the employee, acting within the scope of his employment, is making service attachments to the structure supporting an overhead line carrying high voltage, if authorized to do so by the public utility operating the overhead line.

Sec. 102. NRS 597.816 is hereby amended to read as follows:

597.816 The provisions of NRS 597.814 do not prohibit the use of a device for automatic dialing and announcing by any person exclusively on behalf of:

1. A school or school district to contact the parents or guardians of a pupil regarding the attendance of the pupil or regarding other business of the school or school district.

2. A nonprofit organization.

3. A ~~[company]~~ *video service provider* that provides cable television *or other video* services to contact its customers regarding a previously arranged installation of such services at the premises of the customer.

4. A public utility to contact its customers regarding a previously arranged installation of utility services at the premises of the customer.

5. A facility that processes or stores petroleum, volatile petroleum products, natural gas, liquefied petroleum gas, combustible chemicals, explosives, high-level radioactive waste or other dangerous substances to advise local residents, public service agencies and news media of an actual or potential life-threatening emergency.

6. A state or local governmental agency, or a private entity operating under contract with and at the direction of such an agency, to provide:

(a) Information relating to public safety;

(b) Information relating to a police or fire emergency; or

(c) A warning of an impending or threatening emergency.

7. A candidate for public office, committee advocating the passage or defeat of a ballot question, political party, committee sponsored by a political party or a committee for political action.

Sec. 103. NRS 598.137 is hereby amended to read as follows:

598.137 1. A person shall not, in connection with the sale or lease or solicitation for sale or lease of any goods, property or service, represent that another person has a chance to receive a prize or item of value without clearly disclosing on whose behalf the contest or promotion is conducted and all conditions that a participant must meet.

2. A person who makes a representation described in subsection 1 must display, clearly and conspicuously, adjacent to the description of the item or prize to which it relates:

(a) The actual retail value of each item or prize;

(b) The number of each item or prize to be awarded; and

(c) The odds of receiving each item or prize, expressed in whole numbers.

3. It is unlawful to make a representation described in subsection 1 if it has already been determined which items will be given to the person to whom the representation is made.

4. The provisions of this section do not apply if:

(a) Participants are asked to complete and mail or deposit, at a local retail commercial establishment, an entry blank obtained locally or by mail, or to call in their entry by telephone; and

(b) Participants are not asked to listen to a sales presentation.

5. Advertisements with representations made pursuant to subsection 1 that are broadcast by radio or television may be broadcast without the required disclosures, conditions and restrictions but must clearly broadcast the availability of such disclosures, conditions and restrictions to an interested person, without any charge, upon request.

6. This section does not create liability for acts of a publisher, owner, agent or employee of a newspaper, periodical, radio station, television station, cable television system *or other video service network* or other advertising medium for the publication or dissemination of an advertisement or promotion pursuant to this section if the publisher, owner, agent or employee did not know that the advertisement or promotion violated the provisions of this section.

7. For the purposes of this section, the actual retail value of an item or prize is the price at which substantial sales of the item were made in an area within the last 90 days, or if no substantial sales were made, the cost of the item or prize to the person on whose behalf the contest or promotion is conducted.

Sec. 104. NRS 598A.040 is hereby amended to read as follows:

598A.040 The provisions of this chapter do not apply to:

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.

2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.

3. Conduct which is expressly authorized, regulated or approved by:

(a) A statute of this State or of the United States;

(b) An ordinance of any city or county of this State, except for ordinances relating to ~~[community antenna television companies;]~~ *video service providers;* or

(c) An administrative agency of this State or of the United States or of a city or county of this State, having jurisdiction of the subject matter.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges, including charges between carriers and compensation paid or received for the use of facilities and equipment, that are authorized, regulated or approved by the Transportation Services Authority pursuant to chapter 706 of NRS.

5. Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 105. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Consumer" means a person who is solicited by a seller or salesman.

4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

5. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

6. "Goods or services" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

7. "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

8. "Recovery service" means a business or other practice whereby a person represents or implies that he will, for a fee, recover any amount of money that a consumer has provided to a seller or salesman pursuant to a solicitation governed by the provisions of this chapter.

9. "Salesman" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

➥ except that a person is not a salesman if his only function is to identify a consumer by name only and he immediately refers the consumer to a salesman.

10. Except as otherwise provided in subsection 11, "seller" means any person who, on his own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salesmen or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or

(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

11. "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or $50, whichever is less; or

(2) The consumer provides a donation of $50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, video cassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

(2) Includes the business address of the person;

(3) Includes at least 24 pages of written material and illustrations;

(4) Is distributed in more than one state; and

(5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his license.

(p) A person soliciting the sale of services provided by a ~~[community antenna television company]~~ *video service provider* subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than $100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act *,* ~~[(]~~ 7 U.S.C. §§ 1 et seq. *;* ~~[),]~~ and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 105.1. For the purposes of sections 105.3 to 106.2, inclusive, of this act, the Legislature hereby finds and declares that:

1. There is a need to balance the goal of providing children with the benefits and opportunities available on the Internet against the compelling need and duty to protect children from contact with sexual predators.

2. Sexual predators use Internet and network sites, including chat rooms and social networking websites, to locate, approach and befriend children, to acquire personal information about children and to prey on children by engaging in sexually explicit conversations, requesting photographs and attempting to lure children into meeting with them in person.

3. According to the United States Attorney General, one in five children has been approached sexually on the Internet.

4. The explosive growth of chat rooms and social networking websites has increased the difficulty of monitoring the Internet activities of children and protecting children from sexual predators, particularly when children use the Internet without supervision.

5. Providers of Internet service and the owners and operators of chat rooms and social networking websites are well-situated to help parents and guardians in the on-going effort to guard against sexual predators who misuse Internet technology as a tool to prey on and victimize children.

Sec. 105.2. Chapter 603 of NRS is hereby amended by adding thereto the provisions set forth as sections 105.3 to 106.2, inclusive, of this act.

Sec. 105.3. *As used in sections 105.3 to 106.2, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 105.4 to 105.7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 105.4. *"Child" means a person who is less than 18 years of age.*

Sec. 105.5. *"Electronic mail" has the meaning ascribed to it in NRS 41.715.*

Sec. 105.6. *1. "Internet or any other computer network" means:*

(a) The computer network commonly known as the Internet and any other local, regional or global computer network that is similar to or is a predecessor or successor of the Internet; and

(b) Any identifiable site on the Internet or such other computer network.

2. The term includes, without limitation:

(a) A website or other similar site on the World Wide Web;

(b) A site that is identifiable through a Uniform Resource Location;

(c) A site on a computer network that is owned, operated, administered or controlled by a provider of Internet service;

(d) An electronic bulletin board;

(e) A list server;

(f) A newsgroup; or

(g) A chat room.

Sec. 105.7. *"Provider of Internet service" or "provider" means any person who, for a fee or other consideration, provides subscribers with access to the Internet or any other computer network.*

Sec. 105.8. *For the purposes of sections 105.3 to 106.2, inclusive, of this act, a person has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.*

Sec. 106. *1. If a provider of Internet service knows or has reasonable cause to believe that a subscriber resides within this State, the provider shall make available to the subscriber a product or service which enables the subscriber to regulate a child's use of the Internet service provided to the subscriber ~~[.]~~ if such a product or service is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service. The product or service must , subject to such availability, enable the subscriber to:*

(a) Block all access to the Internet;

(b) Block access to specific websites or domains disapproved by the subscriber;

(c) Restrict access exclusively to specific websites or domains approved by the subscriber; and

(d) Allow the subscriber to monitor a child's use of the Internet service by providing a report to the subscriber of the specific websites or domains that the child has visited or has attempted to visit but could not access because the websites or domains were blocked or restricted by the subscriber.

2. For the purposes of subsection 1, a provider of Internet service shall be deemed to know that a subscriber resides within this State if the

subscriber identifies Nevada as his place of residence at the time of subscription.

3. ~~[A]~~ If a product or service described in subsection 1 is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service, the provider of Internet service:

(a) Shall provide to the subscriber, at the time of subscription, notice of the availability of the product or service described in subsection 1. The notice must be provided to the subscriber by electronic mail or in a written form through another reasonable means.

(b) May make the product or service described in subsection 1 available to the subscriber either directly or through a third-party vendor. The provider or third-party vendor may charge the subscriber a fee for the product or service.

Sec. 106.2. *1. Any violation of sections 105.3 to 106.2, inclusive, of this act constitutes a deceptive trade practice ~~[for the purposes of the civil and administrative remedies and penalties set forth in]~~ subject to NRS 598.0903 to 598.0999, inclusive.*

2. The remedies, duties and prohibitions set forth in sections 105.3 to 106.2, inclusive, of this act are not exclusive and are in addition to any other remedies, duties and prohibitions provided by law.

Sec. 106.4. NRS 603.010 is hereby amended to read as follows:

603.010 As used in ~~[this chapter]~~ *NRS 603.010 to 603.090, inclusive,* unless the context otherwise requires, the words and terms defined in NRS 603.020 and 603.030, have the meanings ascribed to them in those sections.

Sec. 106.6. NRS 603.090 is hereby amended to read as follows:

603.090 The civil remedies provided in ~~[this chapter:]~~ *NRS 603.010 to 603.090, inclusive:*

1. Do not preclude the prosecution of a defendant under the penal laws of this State.

2. Are in addition to any rights or remedies to which the owner of a proprietary program or data stored in a computer is entitled under the common law.

Sec. 106.8. NRS 618.880 is hereby amended to read as follows:

618.880 1. The Division shall adopt regulations establishing standards and procedures for the operation of cranes, including, without limitation, regulations requiring the:

(a) Establishment and implementation of site safety plans and procedures for the erection and dismantling of tower cranes;

(b) Establishment of a clear zone around the erection, dismantling or other highly hazardous lifts with a crane;

(c) Annual certification of the mechanical lifting parts of the crane; and

(d) Certification of tower cranes each time a tower crane is erected and additional annual certifications of tower cranes while they continue to be in use.

2. Except as otherwise provided in subsection 3:

(a) The Division shall adopt regulations requiring the establishment and implementation of programs for the certification of all persons who operate:

(1) Tower cranes; or

(2) Mobile cranes having a usable boom length of 25 feet or greater or a maximum machine rated capacity of 15,000 pounds or greater.

(b) A person shall not operate a tower crane or a mobile crane described in subparagraph (2) of paragraph (a) unless the person holds certification as a crane operator issued pursuant to this subsection for the type of crane being operated.

(c) An applicant for certification as a crane operator must hold a certificate which:

(1) Is issued by an organization whose program of certification for crane operators:

(I) Is accredited by the National Commission for Certifying Agencies or an equivalent accrediting body approved by the Division; or

(II) Meets other criteria established by the Division; and

(2) Certifies that the person has met the standards to be a crane operator established by the American Society of Mechanical Engineers in its standards B30.3, B30.4 or B30.5 as adopted by regulation of the Division.

3. The provisions of subsection 2 do not apply to a person who:

(a) Is an employee of a utility while the person is engaged in work for or at the direction of the utility;

(b) Operates an electric or utility line truck that is regulated pursuant to 29 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart V; or

(c) Operates an aerial or lifting device, whether or not self-propelled, that is designed and manufactured with the specific purpose of lifting one or more persons in a bucket or basket or on a ladder or platform and holding those persons in the lifted position while they perform tasks. Such devices include, without limitation:

(1) A bucket truck or lift;

(2) An aerial platform;

(3) A platform lift; or

(4) A scissors lift.

4. As used in this section, "utility" means any public or private utility, whether or not the utility is subject to regulation by the Public Utilities Commission of Nevada, that provides, at wholesale or retail:

(a) Electric service;

(b) Gas service;

(c) Water or sewer service;

(d) Telecommunication service, including, without limitation, local exchange service, long distance service and personal wireless service; or

(e) Television service, including, without limitation, community antenna television *, cable television and other video* service.

Sec. 107. NRS 624.218 is hereby amended to read as follows:

624.218 1. The Board shall adopt by regulation a classification of licensing for persons who construct or improve ~~[community antenna television systems.]~~ *video service networks.* Except as otherwise provided in subsection 2, a person who engages in such construction, alteration or improvement must be licensed in this classification and may not be required to be licensed in any other classification.

2. The licensing requirements adopted pursuant to subsection 1 do not apply to a person who is engaged solely in the alteration or repair of antennae used by a community antenna television system.

3. As used in this section, "video service network" has the meaning ascribed to it in section 26 of this act.

Sec. 108. 1. NRS 318.1193, 318.1194, 354.598811, 711.185, 711.190, 711.200, 711.210, 711.230 and 711.250 are hereby repealed.

2. Section 2.290 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 63, is hereby repealed.

3. Section 2.320 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 612, is hereby repealed.

4. Section 2.280 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 300, is hereby repealed.

5. Section 2.350 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 460, is hereby repealed.

6. Section 2.300 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 410, is hereby repealed.

7. Section 2.330 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1405, is hereby repealed.

8. Section 2.300 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1219, is hereby repealed.

9. Section 2.320 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 466, is hereby repealed.

10. Section 2.300 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 184, Statutes of Nevada 1985, at page 645, is hereby repealed.

Sec. 109. On or before October 1, 2007, the Secretary of State shall adopt any regulations that are necessary to carry out the provisions of this act.

~~Sec. 110.~~ This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

318.1193 Facilities for television: Limitation on organization if area includes existing service.

318.1194 Facilities for television: Approval of electors required in certain districts for franchise for community antenna television system.

354.598811 Limitations on fees applicable to public utilities: "Community antenna television company" defined.

711.185 Governing body may grant exclusive franchise.

711.190 Franchise granted by city or county: Conditions; requirements.

711.200 Fees for franchise.

711.210 Renewal of franchise.

711.230 Considerations in granting franchise.

711.250 Adoption of ordinance to establish procedure to resolve complaints of subscribers; notice.

Caliente City Charter Sec. 2.290 Powers of City Council: Television franchises.

Carlin City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Carson City Charter Sec. 2.280 Power of Board: Television franchises.

Elko City Charter Sec. 2.350 Powers of City Council: Television franchises.

Henderson City Charter Sec. 2.300 Powers of City Council: Television franchises.

Las Vegas City Charter Sec. 2.330 Powers of City Council: Television franchises.

North Las Vegas City Charter Sec. 2.300 Powers of City Council: Television franchises.

Wells City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Yerington City Charter Sec. 2.300 Powers of City Council: Franchises for television and cable television.

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, Care and Carlton.

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

SENATOR TOWNSEND:

Thank you, Mr. President. This is the statewide video-franchise bill previously mentioned. This is a significant amendment, and I will try to highlight the important components of it.

This amendment changes the term "gross revenue" which is the basis on which they are taxed by the franchise fee on video providers to make certain it is the consideration received from its subscribers.

It also specifies that the fees for application to the Secretary of State's Office cannot be passed through to its subscribers because the fee is substantial.

It also exempts the requirements of the statewide video-franchise components for a cable operator in a county of population less than 100,000. Under this particular provision of the law, those operators can exempt themselves by opting out and staying under their current contract or franchise agreement for as long as it runs. The purpose of that was there is a $25,000 fee for a statewide franchise. For the small operators, some of whom only have 40 customers, $25,000 is an amount they might not choose to do. Nothing would prevent them from opting out. This is good for small operators and local governments in our rural communities.

The amendment also addresses a local governmental entity when providing video services. An incumbent small provider does not need to obtain a certificate of authority. We did not want to burden them with any further requirements.

This amendment deletes section 42 pertaining to the complaint process and, hopefully, improves that process by providing provisions that require local governments in counties of populations of more than 25,000 to provide a list of video service providers and to coordinate

resolution of subscriber complaints with customer service departments of those providers. That is where the customer who has a problem with his cable will still go to a local government if his complaint has not been addressed.

To further provide customer protection, section 60 in this amendment amends the entire bill to authorize the Consumer Advocate's Office in the Bureau of Consumer Protection to prosecute violations of this chapter and to seek equitable relief along with other appropriate judicial remedies for any violations as well as reasonable attorneys' fees.

There have been some deep concerns raised. This amendment is an important component to the transition. As providers get away from local franchising and local authority, putting the franchise in one place, i.e. the Secretary of State's Office, where cable operators no longer have to go to Reno, Sparks or the county to provide service, or in the case of southern Nevada, Henderson, Las Vegas, North Las Vegas or Clark County, they can go to the State and get one franchise agreement. The customer can still go to local government if they do not get resolution to their questions from their cable operator. Local government acts as an intermediary and will attempt to resolve the customer's complaint. If it is not resolved, local government will file the complaint with the Bureau of Consumer Protection, a part of the Attorney General's Office.

The amendment deletes section 44, which addressed exclusive-provider agreements.

Finally, it clarifies that the provider of Internet service shall make available to a subscriber, known to reside in Nevada, a product which enables the subscriber to regulate a child's use of the Internet if such a product is reasonably and commercially available for the technology utilized by the subscriber to access the Internet. In discussions with the various providers, they felt comfortable with this because they already provide this; the technology is there and is available to parents who sign up for Internet service.

SENATOR CARE:

Thank you, Mr. President. I think it is important for legislative history to discuss a few items. I have a question about section 29.5, the filing fees.

Do those impact the customer in any way? Let me read the section, "the entity be permitted to recoup those filing fees from the customers."

Also, are there any other states that have legislation like this? Is this something that is part of a move to simplify the multiple jurisdictions that have different franchises, and is it intended to make the industry operate more efficiently?

SENATOR TOWNSEND:

Thank you, Mr. President. The video provider is prohibited by law, in this amendment, from passing on the $25,000-application costs to subscribers.

There is such a change in the world of data, voice and video, that, as the lines becomes blurred, it is necessary to catch up to allow customers to have access to all of the various technologies.

This is the type of legislation that is moving across the Country to make it easier for customers to see the options available by other cable operators who now provide not only video but also data and voice. This gives the consumer the opportunity to look to their basic provider of voice and data who is now getting into the video business. As those start to merge and the lines blur, these bills are the types of legislation you see in every state in order to provide a competitive-regulatory mechanism. That sounds like an oxymoron, but it is not. The transition is necessary to make certain there are enough competitors. We cannot do any deregulation until there is a competitive market. That has to be analyzed by the Public Utilities Commission. That will be in another bill.

SENATOR CARLTON:

Thank you, Mr. President. Under section 42, there are a few things I was asked to put on the record.

Some municipalities are concerned that because they no longer are in control, they would be held accountable. If you look at the language in section 42, it talks about facilitating, coordinating, maintaining a record, responding to, making available to. They are the first line of complaint and are the closest to home to respond to any problems that may occur as we enter this new time frame and video service.

If they find there is a problem, they still have the option to forward that complaint to the Bureau of Consumer Protection. They are not going to be held responsible in reconciling these complaints. They are there as a sounding board and as a funnel to the Bureau of Consumer Protection who will hold statewide control so if someone misbehaves in one part of the State and does something exemplary in another, we can hold them accountable across the whole State.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 529.

Bill read second time.

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

Amendment No. 818.

"SUMMARY—Clarifies the applicability of regulations of the State Fire Marshal concerning building codes. (BDR 42-375)"

"AN ACT relating to the State Fire Marshal; clarifying that, with certain exceptions, regulations adopted by the State Fire Marshal concerning building codes do not apply in certain larger counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Fire Marshal is required to enforce all laws and adopt regulations relating, in pertinent part, to the safety, access, means and adequacy of exit in case of fire from certain buildings used by the public. (NRS 477.030) In accordance with this duty, the State Fire Marshal has adopted by reference in regulation the *International Fire Code, 2003 Edition, Volume 1, and the International Building Code*, 2003 edition, Volumes 1 and 2, with certain changes. (NAC 477.281, 477.283) Although the regulations adopted by the State Fire Marshal apply throughout the State, the State Fire Marshal is only authorized under existing law to enforce those regulations: (1) with respect to buildings owned or occupied by the State; and (2) in counties whose population is less than 100,000 other than consolidated municipalities (currently counties other than Clark and Washoe Counties and Carson City). In counties whose population is 100,000 or more (currently Clark and Washoe Counties and Carson City), the local jurisdictions in those counties are required to enforce the regulations of the State Fire Marshal except if a local jurisdiction in such a county requests the State Fire Marshal to perform such enforcement. (NRS 477.030) Existing law also authorizes the governing body of a city or county to adopt building codes and authorizes boards of county commissioners to regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county. (NRS 244.3675, 268.413, 278.580)

This bill makes the regulations adopted by the State Fire Marshal concerning building codes inapplicable in a county whose population is 400,000 or more (currently Clark County) if that county has adopted a code at least as stringent as ~~[the edition of]~~ the *International Fire Code* ~~[most recently published,]~~ *and the International Building Code,* except with respect

to buildings owned or occupied by the State and public schools and except in a local jurisdiction in such a county in which the State Fire Marshal is requested to enforce those regulations by the chief executive officer of the jurisdiction. *To maintain the exemption from the applicability of those regulations of the State Fire Marshal, the code of the county must be at least as stringent as the most recently published editions of the International Fire Code and the International Building Code within 1 year after publication of such an edition.*

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

Section 1. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ ~~[The]~~ *Except as otherwise provided in subsection 12, the* regulations of the State Fire Marshal apply throughout the State, but ~~[,]~~ except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) ~~[Assist]~~ *Except as otherwise provided in subsection 12, assist* in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. ~~[Any]~~ Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State ~~[, do]~~ :

(a) Do not apply in a county whose population is 400,000 or more ~~[that]~~ which has adopted a code at least as stringent as the ~~[edition of the]~~ International Fire Code ~~[most recently published, except]~~ and the International Building Code, published by the International Code Council. To maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in ~~[such a]~~ the county and ~~[except]~~ in those local jurisdictions in ~~[such a]~~ the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that jurisdiction. As used in this ~~[subsection,]~~ paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Sec. 2. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582 , ~~[and]~~ 444.340 to 444.430, inclusive, *and 477.030*, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada, the Nevada System of Higher Education or any school district.

Sec. 3. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582 , ~~[and]~~ 444.340 to 444.430, inclusive, *and 477.030,* the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada, the Nevada System of Higher Education or any school district.

Sec. 4. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 531.

Bill read second time and ordered to third reading.

Assembly Bill No. 535.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 703.

"SUMMARY—Revises various provisions pertaining to gaming. (BDR 41-591)"

"AN ACT relating to gaming; revising the provisions governing which persons are required to register as gaming employees; providing that foreign limited-liability companies and foreign limited partnerships may obtain state gaming licenses; revising the provisions governing the acquisition or disposition of certain interests in certain corporations, limited-liability companies and limited partnerships; prohibiting certain acts involving counterfeit wagering instruments and counterfeit promotional items; making various other changes pertaining to gaming; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Gaming Control Board is required to maintain and make available to every licensee a list of persons who have been denied a license, been found unsuitable or had a license or finding of suitability revoked by the Nevada Gaming Commission. (NRS 463.165, 463.167, 463.645) Sections 1, 5, 6 and 22 of this bill reorganize the provisions pertaining to that list and provide that a person whose name is on the list may apply to have his name removed from the list no earlier than 5 years after his license was denied, he was found unsuitable or his license or finding of suitability was revoked.

Independent agents who reside in Nevada are currently required to register as independent agents pursuant to the regulations adopted by the Nevada Gaming Commission and are additionally required to register as gaming employees pursuant to statute, whereas independent agents who reside outside Nevada are required only to register as independent agents. (NRS 463.335; Regulation 25 of the Nevada Gaming Commission) Sections 2-4, 7 and 8 of this bill remove the requirement that independent agents who reside in Nevada must register as gaming employees. Section 2 also provides that persons involved in the process of registration of gaming employees and persons directly involved in the manufacture, repair or distribution of gaming devices and other systems and equipment must be registered as gaming employees.

Section 9 of this bill revises the existing provisions pertaining to disputes involving patrons and licensees to make those provisions apply to the award or distribution of cash, prizes, benefits, tickets or any other item or items in a game, tournament, contest, drawing, promotion or similar activity or event. (NRS 463.362)

Sections 10-12, 15 and 18 of this bill revise existing law to allow foreign limited-liability companies and limited partnerships to obtain state gaming licenses. (NRS 463.564, 463.5731)

Sections 13, 14, 16, 17, 19 and 20 of this bill require holding companies and intermediary companies for certain corporations, limited-liability companies and limited partnerships to seek administrative approval for the acquisition or disposition of certain interests in such entities. Existing law is also amended to provide that such acquisitions or dispositions are void if not approved as required, rather than ineffective. (NRS 463.5665, 463.567, 463.57325, 463.5733)

Existing law provides that each person who acquires, directly or indirectly, beneficial ownership of any voting security in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that his acquisition of that ownership would otherwise be inconsistent with the declared policy of this State. (NRS 463.643) Section 21 of this bill provides that a person may also be required to be found suitable if the person acquires beneficial or record ownership of any non-voting security in such a corporation.

Section 22 of this bill makes the provisions concerning unsuitable and unlicensed persons associated with certain business entities consistent with other statutory provisions by expressly stating that such persons may not receive remuneration, enter into a contract or be employed by any licensee or affiliate of a licensee. (NRS 463.165, 463.166, 463.645)

~~[Sections 23 and 25 of this bill provide that persons in Nevada may place pari-mutuel wagers on horse racing in other states and foreign countries where such wagering is legal.]~~

Under existing law, the Nevada Gaming Commission may, by regulation, authorize a person who owns an antique gaming device to sell that antique gaming device without procuring a license. "Antique gaming device" is defined in existing law as a gaming device that was manufactured before 1951. (NRS 463.650) Section 22.5 of this bill revises the definition of "antique gaming device" to mean a gaming device that was manufactured before 1961.

Section 24 of this bill amends the existing prohibition against the use of counterfeit wagering instruments to make unlawful the possession, sale or manufacture of such counterfeit wagering instruments. (NRS 465.080) Section 24 also prohibits the possession, use, sale or manufacture of counterfeit promotional items.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall maintain and make available to every licensee a complete and current list containing the names of every person who has been denied a license, been found unsuitable or had a license or finding of suitability revoked by the Commission.

2. Any person whose name has been placed on the list maintained by the Board pursuant to subsection 1 may apply, on a form prescribed by the Board, for removal of his name from the list no earlier than 5 years after the date on which the person was denied a license, found unsuitable or had a license or finding of suitability revoked by the Commission.

Sec. 2. NRS 463.0157 is hereby amended to read as follows:

463.0157 1. "Gaming employee" means any person connected directly with an operator of a slot route, the operator of a pari-mutuel system, the operator of an inter-casino linked system or a manufacturer, distributor or disseminator, or with the operation of a gaming establishment licensed to conduct any game, 16 or more slot machines, a race book, sports pool or pari-mutuel wagering, including:

(a) Accounting or internal auditing personnel who are directly involved in any recordkeeping or the examination of records associated with revenue from gaming;

(b) Boxmen;

(c) Cashiers;

(d) Change personnel;

(e) Counting room personnel;

(f) Dealers;

(g) Employees of a person required by NRS 464.010 to be licensed to operate an off-track pari-mutuel system;

(h) Employees of a person required by NRS 463.430 to be licensed to disseminate information concerning racing;

(i) Employees ~~[of manufacturers or distributors of gaming equipment within this State]~~ whose duties are directly involved with the manufacture, repair or distribution of gaming devices, cashless wagering systems, mobile gaming systems, equipment associated with mobile gaming systems, interactive gaming systems or equipment associated with interactive gaming;

(j) Employees of operators of slot routes who have keys for slot machines or who accept and transport revenue from the slot drop;

(k) Employees of operators of inter-casino linked systems, mobile gaming systems or interactive gaming systems whose duties include the operational or supervisory control of the systems or the games that are part of the systems;

(l) *Employees whose responsibilities include performing the duties relating to the process of registration of gaming employees that a licensee is required to perform pursuant to the provisions of this chapter and any regulations adopted pursuant thereto;*

(m) Floormen;

~~[(m)]~~ *(n)* Hosts or other persons empowered to extend credit or complimentary services;

~~[(n)]~~ *(o)* Keno runners;

~~[(o)]~~ *(p)* Keno writers;

~~[(p)]~~ *(q)* Machine mechanics;

~~[(q)]~~ *(r)* Odds makers and line setters;

~~[(r)]~~ *(s)* Security personnel;

~~[(s)]~~ *(t)* Shift or pit bosses;

~~[(t)]~~ *(u)* Shills;

~~[(u)]~~ *(v)* Supervisors or managers;

~~[(v)]~~ *(w)* Ticket writers; and

~~[(w)]~~ *(x)* Employees of a person required by NRS 463.160 to be licensed to operate an information service.

2. "Gaming employee" does not include bartenders, cocktail waitresses or other persons engaged exclusively in preparing or serving food or beverages.

Sec. 3. NRS 463.01858 is hereby amended to read as follows:

463.01858 "Registered as a gaming employee" means authorized to be employed as a gaming employee in this State . ~~[or to serve as an independent agent.]~~

Sec. 4. NRS 463.01955 is hereby amended to read as follows:

463.01955 "Temporarily registered as a gaming employee" means authorized to be employed as a gaming employee in this State ~~[or serve as an independent agent]~~ from the date of submitting a complete application for registration or renewal of registration for a period not to exceed 120 days following receipt of the complete application by the Board, including classifiable fingerprints, unless otherwise suspended.

Sec. 5. NRS 463.165 is hereby amended to read as follows:

463.165 1. Except for persons associated with licensed corporations, limited partnerships or limited-liability companies and required to be licensed pursuant to NRS 463.530, 463.569 or 463.5735, each employee, agent, guardian, personal representative, lender or holder of indebtedness of a gaming licensee who, in the opinion of the Commission, has the power to exercise a significant influence over the licensee's operation of a gaming establishment may be required to apply for a license.

2. A person required to be licensed pursuant to subsection 1 shall apply for a license within 30 days after the Commission requests that he do so.

3. If an employee required to be licensed under subsection 1:

(a) Does not apply for a license within 30 days after being requested to do so by the Commission, and the Commission makes a finding of unsuitability for that reason;

(b) Is denied a license; or

(c) Has his license revoked by the Commission,

➥ the licensee by whom he is employed shall terminate his employment in any capacity in which he is required to be licensed and shall not permit him to exercise a significant influence over the operation of the gaming establishment upon being notified by registered or certified mail of that action.

4. A gaming licensee or an affiliate of the licensee shall not pay to a person whose employment has been terminated pursuant to subsection 3 any remuneration for any service performed in any capacity in which he is required to be licensed, except for amounts due for services rendered before the date of receipt of notice of the action by the Commission. Any contract or agreement for personal services or for the conduct of any activity at the licensed gaming establishment between a gaming licensee or an affiliate of the licensee and a person terminated pursuant to subsection 3 is subject to termination. Every such agreement shall be deemed to include a provision for its termination without liability on the part of the licensee or affiliate upon a finding by the Commission that the person is unsuitable to be associated with a gaming enterprise. Failure expressly to include that condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

5. A gaming licensee or an affiliate of the licensee shall not, without the prior approval of the Commission, enter into any contract or agreement with a person who is found unsuitable or who is denied a license or whose license is revoked by the Commission, ~~[and whose name has been placed on the list~~

~~maintained pursuant to subsection 8,]~~ or with any business enterprise that the licensee knows or under the circumstances reasonably should know is under the control of that person after the date of receipt of notice of the action by the Commission. Every contract or agreement for personal services to a gaming licensee or an affiliate or for the conduct of any activity at a licensed gaming establishment shall be deemed to include a provision for its termination without liability on the part of the licensee or affiliate upon a finding by the Commission that the person is unsuitable to be associated with a gaming enterprise. Failure expressly to include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

6. A gaming licensee or an affiliate of the licensee shall not, without the prior approval of the Commission, employ any person in a capacity for which ~~[he]~~ *the person* is required to be licensed, if ~~[he]~~ *the person* has been found unsuitable or denied a license, or ~~[whose]~~ *if his* license has been revoked by the Commission, ~~[and whose name has been placed on the list maintained pursuant to subsection 8,]~~ after the date of receipt of notice of the action by the Commission. Every contract or agreement for employment with a gaming licensee or an affiliate shall be deemed to include a provision for its termination without liability on the part of the licensee or affiliate upon a finding by the Commission that the person is unsuitable to be associated with a gaming enterprise. Failure to expressly include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

7. As used in this section, "affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with a licensee.

~~[8. The Board shall maintain and make available to every licensee a complete and current list containing the names of every person the Commission has denied a license, who has been found unsuitable or who has had a license or finding of suitability revoked. The list must also contain the names of any business organization under the control of any such person known to the Board.]~~

Sec. 6. NRS 463.167 is hereby amended to read as follows:

463.167 1. The Commission may determine the suitability, or may require the licensing, of any person who furnishes services or property to a state gaming licensee under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from gaming. The Commission may require any such person to comply with the requirements of this chapter and with the regulations of the Commission. If the Commission determines that any such person is unsuitable, it may require the arrangement to be terminated.

2. If the premises of a licensed gaming establishment are directly or indirectly owned or under the control of the licensee therein, or of any person controlling, controlled by, or under common control with the licensee, the

Commission may, upon recommendation of the Board, require the application of any person for a determination of suitability to be associated with a gaming enterprise if the person:

(a) Does business on the premises of the licensed gaming establishment;

(b) Is an independent agent or does business with a licensed gaming establishment as a ticket purveyor, a tour operator, the operator of a bus program, or as the operator of any other type of casino travel program or promotion; or

(c) Provides any goods or services to the licensed gaming establishment for a compensation which the Board finds to be grossly disproportionate to the value of the goods or services.

3. If the Commission determines that the person is unsuitable to be associated with a gaming enterprise, the association must be terminated. Any agreement which entitles a business other than gaming to be conducted on the premises, or entitles a person other than gaming to conduct business with the licensed gaming establishment as set forth in paragraph (b) or (c) of subsection 2, is subject to termination upon a finding of unsuitability of the person associated therewith. Every such agreement must be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the Commission that the person associated therewith is unsuitable to be associated with a gaming enterprise. Failure expressly to include that condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement. If the application is not presented to the board within 30 days following demand or the unsuitable association is not terminated, the Commission may pursue any remedy or combination of remedies provided in this chapter.

~~[4. The name of any person determined to be unsuitable pursuant to this section must be included on the list required pursuant to subsection 8 of NRS 463.165.]~~

Sec. 7. NRS 463.335 is hereby amended to read as follows:

463.335 1. The Legislature finds that, to protect and promote the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and to carry out the policy declared in NRS 463.0129, it is necessary that the Board:

(a) Ascertain and keep itself informed of the identity, prior activities and present location of all gaming employees ~~[and independent agents]~~ in the State of Nevada; and

(b) Maintain confidential records of such information.

2. ~~[Except as otherwise provided in subsection 4, a]~~ *A* person may not be employed as a gaming employee ~~[or serve as an independent agent]~~ unless he is temporarily registered or registered as a gaming employee pursuant to this section. An applicant for registration or renewal of registration as a gaming employee must file an application for registration or renewal of registration with the Board. Whenever a registered gaming employee, whose registration has not expired, has not been objected to by the Board, or has not been

suspended or revoked becomes employed as a gaming employee at another or additional gaming establishment, he must file a change of employment notice within 10 days with the Board. The application for registration and change of employment notice must be filed through the licensee for whom the applicant will commence or continue working as a gaming employee, unless otherwise filed with the Board as prescribed by regulation of the Commission.

3. The Board shall prescribe the forms for the application for registration as a gaming employee and the change of employment notice.

4. ~~[An independent agent is not required to be registered as a gaming employee if he is not a resident of this State and has registered with the Board in accordance with the provisions of the regulations adopted by the Commission.~~

~~5.]~~ A complete application for registration or renewal of registration as a gaming employee or a change of employment notice received by a licensee must be mailed or delivered to the Board within 5 business days ~~[of]~~ *after* receipt unless the date is administratively extended by the Chairman of the Board for good cause. A licensee is not responsible for the accuracy or completeness of any application for registration or renewal of registration as a gaming employee or any change of employment notice.

~~[6.]~~ *5.* The Board shall immediately conduct an investigation of each person who files an application for registration or renewal of registration as a gaming employee to determine whether he is eligible for registration as a gaming employee. In conducting the investigation, two complete sets of the applicant's fingerprints must be submitted to the Central Repository for Nevada Records of Criminal History for:

(a) A report concerning the criminal history of the applicant; and

(b) Submission to the Federal Bureau of Investigation for a report concerning the criminal history of the applicant.

➥ The investigation need not be limited solely to consideration of the results of the report concerning the criminal history of the applicant. The fee for processing an application for registration or renewal of registration as a gaming employee may be charged only to cover the actual investigative and administrative costs related to processing the application and the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to process the fingerprints of an applicant pursuant to this subsection.

~~[7.]~~ *6.* Upon receipt of a change of employment notice, the Board may conduct any investigations of the gaming employee that the Board deems appropriate to determine whether the gaming employee may remain registered as a gaming employee. The filing of a change of employment notice constitutes an application for registration as a gaming employee, and if the Board, after conducting its investigation, suspends or objects to the continued registration of the gaming employee, the provisions of subsections ~~[11 to 17,]~~ *10 to 16*, inclusive, apply to such suspension by or objection of

the Board. No fee may be charged by the Board to cover the actual investigative and administrative costs related to processing a change of employment notice.

~~[8.]~~ *7.* Except as otherwise prescribed by regulation of the Commission, an applicant for registration or renewal of registration as a gaming employee is deemed temporarily registered as a gaming employee as of the date a complete application for registration or renewal of registration is submitted to the licensee for which he will commence or continue working as a gaming employee. Unless objected to by the Board or suspended or revoked, the initial registration of an applicant as a gaming employee expires 5 years after the date employment commences with the applicable licensee . ~~[or, in the case of an independent agent, 5 years after the date he contracts with an applicable licensee.]~~ Any subsequent renewal of registration as a gaming employee, unless objected to by the Board or suspended or revoked, expires 5 years after the expiration date of the most recent registration or renewal of registration of the gaming employee.

~~[9.]~~ *8.* If, within 120 days after receipt by the Board of a complete application for registration or renewal of registration as a gaming employee, including classifiable fingerprints, or a change of employment notice, the Board has not notified the applicable licensee of any suspension or objection, the applicant shall be deemed to be registered as a gaming employee. A complete application for registration or renewal of registration as a gaming employee is composed of:

(a) The fully completed form for application for registration as a gaming employee prescribed in subsection 3;

(b) Two complete sets of the fingerprints of the applicant, unless directly forwarded electronically or by another means to the Central Repository for Nevada Records of Criminal History;

(c) The fee for processing the application for registration or renewal of registration as a gaming employee prescribed by the Board pursuant to subsection ~~[6,]~~ *5,* unless otherwise prescribed by regulation of the Commission; and

(d) A completed statement as prescribed in subsections 1 and 2 of NRS 463.3351.

➥ If the Board determines after receiving an application for registration or renewal of registration as a gaming employee that the application is incomplete, the Board may suspend the temporary registration as a gaming employee of the applicant who filed the incomplete application. An applicant whose temporary registration is suspended shall not be eligible to work as a gaming employee until such time as he files a complete application.

~~[10.]~~ *9.* A person who is temporarily registered or registered as a gaming employee is eligible for employment in any licensed gaming establishment in this State until such registration is objected to by the Board, expires or is suspended or revoked. The Commission shall adopt regulations to:

(a) Establish uniform procedures for the registration of gaming employees;

(b) Establish uniform criteria for objection by the Board of an application for registration; and

(c) Provide for the creation and maintenance of a system of records that contain information regarding the current place of employment of each person who is registered as a gaming employee and each person whose registration as a gaming employee has expired, was objected to by the Board, or was suspended or revoked. The system of records must be accessible by:

(1) Licensees for the limited purpose of complying with subsection 2; and

(2) The Central Repository for Nevada Records of Criminal History for the limited purpose of complying with NRS 179D.570.

~~[11.]~~ *10.* If the Board, within the 120-day period prescribed in subsection ~~[9,]~~ *8,* notifies:

(a) The applicable licensee; and

(b) The applicant,

➥ that the Board suspends or objects to the temporary registration of an applicant as a gaming employee, the licensee shall immediately terminate the applicant from employment or reassign him to a position that does not require registration as a gaming employee. The notice of suspension or objection by the Board which is sent to the applicant must include a statement of the facts upon which the Board relied in making its suspension or objection.

~~[12.]~~ *11.* Any person whose application for registration or renewal of registration as a gaming employee has been suspended or objected to by the Board may, not later than 60 days after receiving notice of the suspension or objection, apply to the Board for a hearing. A failure of a person whose application has been objected to or suspended to apply for a hearing within 60 days or his failure to appear at a hearing of the Board conducted pursuant to this section shall be deemed to be an admission that the suspension or objection is well-founded, and the failure precludes administrative or judicial review. At the hearing, the Board shall take any testimony deemed necessary. After the hearing, the Board shall review the testimony taken and any other evidence, and shall, within 45 days after the date of the hearing, mail to the applicant its decision sustaining or reversing the suspension or the objection to the registration of the applicant as a gaming employee.

~~[13.]~~ *12.* The Board may suspend or object to the registration of an applicant as a gaming employee for any cause deemed reasonable by the Board. The Board may object to or suspend the registration if the applicant has:

(a) Failed to disclose or misstated information or otherwise attempted to mislead the Board with respect to any material fact contained in the application for registration as a gaming employee;

(b) Knowingly failed to comply with the provisions of this chapter or chapter 463B, 464 or 465 of NRS or the regulations of the Commission at a place of previous employment;

(c) Committed, attempted or conspired to commit any crime of moral turpitude, embezzlement or larceny or any violation of any law pertaining to gaming, or any crime which is inimical to the declared policy of this State concerning gaming;

(d) Committed, attempted or conspired to commit a crime which is a felony or gross misdemeanor in this State or an offense in another state or jurisdiction which would be a felony or gross misdemeanor if committed in this State and which relates to the applicant's suitability or qualifications to work as a gaming employee;

(e) Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or as being of notorious and unsavory reputation;

(f) Been placed and remains in the constructive custody of any federal, state or municipal law enforcement authority; or

(g) Had registration as a gaming employee revoked or committed any act which is a ground for the revocation of registration as a gaming employee or would have been a ground for revoking registration as a gaming employee if the applicant had then been registered as a gaming employee.

➥ If the Board registers or does not suspend or object to the registration of an applicant as a gaming employee, it may specially limit the period for which the registration is valid, limit the job classifications for which the registered gaming employee may be employed and establish such individual conditions for the renewal and effectiveness of the registration as the Board deems appropriate, including required submission to unscheduled tests for the presence of alcohol or controlled substances. *If a gaming employee fails to comply with any limitation or condition placed on the effectiveness of his registration as a gaming employee, notwithstanding any other provision of this section, the Board may object to his registration. If the Board objects to his registration, the provisions regarding the continued effectiveness of the registration and the review of the objection set forth in subsections 10 to 16, inclusive, apply, including, without limitation, the requirement to notify the applicable licensee about the objection.*

~~[14.]~~ *13.* Any applicant aggrieved by the decision of the Board may, within 15 days after the announcement of the decision, apply in writing to the Commission for review of the decision. Review is limited to the record of the proceedings before the Board. The Commission may sustain, modify or reverse the Board's decision. The decision of the Commission is subject to judicial review pursuant to NRS 463.315 to 463.318, inclusive.

~~[15.]~~ *14.* The Chairman of the Board may designate a member of the Board or the Board may appoint a hearing examiner and authorize that person to perform on behalf of the Board any of the following functions

required of the Board by this section concerning the registration or renewal of registration of gaming employees:

(a) Conducting a hearing and taking testimony;

(b) Reviewing the testimony and evidence presented at the hearing;

(c) Making a recommendation to the Board based upon the testimony and evidence or rendering a decision on behalf of the Board to sustain or reverse the suspension of or the objection to the registration of an applicant as a gaming employee; and

(d) Notifying the applicant of the decision.

~~[16.]~~ *15.* Notice by the Board as provided pursuant to subsections 1 to ~~[15,]~~ *14*, inclusive, is sufficient if it is mailed to the applicant's last known address as indicated on the application for registration as a gaming employee or the record of the hearing, as the case may be. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

~~[17.]~~ *16.* Except as otherwise provided in this subsection, all records acquired or compiled by the Board or Commission relating to any application made pursuant to this section, all lists of persons registered as gaming employees, all lists of persons suspended or objected to by the Board and all records of the names or identity of persons engaged in the gaming industry in this State are confidential and must not be disclosed except in the proper administration of this chapter or to an authorized law enforcement agency. Upon receipt of a request from the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.400 for information relating to a specific person who has applied for registration as a gaming employee or is registered as a gaming employee, the Board shall disclose to the Division his social security number, residential address and current employer as that information is listed in the files and records of the Board. Any record of the Board or Commission which shows that the applicant has been convicted of a crime in another state must show whether the crime was a misdemeanor, gross misdemeanor, felony or other class of crime as classified by the state in which the crime was committed. In a disclosure of the conviction, reference to the classification of the crime must be based on the classification in the state where it was committed.

~~[18.]~~ *17.* If the Central Repository for Nevada Records of Criminal History, in accordance with the provisions of NRS 179D.570, provides the Board with the name and other identifying information of a registered gaming employee who is not in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person that, unless he provides the Board with verifiable documentation confirming that he is currently in compliance with the provisions of chapter 179D of NRS within 15 days after receipt of such notice, the Board shall, notwithstanding any other provisions of this section, conduct a hearing for the purpose of

determining whether the registration of the person as a gaming employee must be suspended for noncompliance with the provisions of chapter 179D of NRS.

~~[19.]~~ *18.* Notwithstanding any other provisions of this section, if a person notified by the Board pursuant to subsection ~~[18]~~ *17* does not provide the Board, within the 15 days prescribed therein, with verifiable documentation establishing that he is currently in compliance with the provisions of chapter 179D of NRS, the Chairman of the Board shall, within 10 days thereof, appoint a hearing examiner to conduct a hearing to determine whether the person is, in fact, not in compliance with the provisions of chapter 179D of NRS. The hearing examiner shall, within 5 days after the date he is appointed by the Chairman, notify the person of the date of the hearing. The hearing must be held within 20 days after the date on which the hearing examiner is appointed by the Chairman, unless administratively extended by the Chairman for good cause. At the hearing, the hearing examiner may take any testimony deemed necessary and shall render a decision sustaining or reversing the findings of the Central Repository for Nevada Records of Criminal History. The hearing examiner shall notify the person of his decision within 5 days after the date on which the decision is rendered. A failure of a person to appear at a hearing conducted pursuant to this section shall be deemed to be an admission that the findings of the hearing examiner are well-founded.

~~[20.]~~ *19.* If, after conducting the hearing prescribed in subsection ~~[19,]~~ *18*, the hearing examiner renders a decision that the person who is the subject of the hearing:

(a) Is not in compliance with the provisions of chapter 179D of NRS, the Board shall, notwithstanding any other provisions of this section:

(1) Suspend the registration of the person as a gaming employee;

(2) Notify the person to contact the Central Repository for Nevada Records of Criminal History to determine the actions that he must take to be in compliance with the provisions of chapter 179D of NRS; and

(3) Notify the licensee for which the person is employed as a gaming employee, in the manner prescribed in subsection ~~[21,]~~ *20*, that the Board has suspended the registration of the person as a gaming employee and that the licensee must immediately terminate the person from employment or reassign him to a position that does not require registration as a gaming employee.

(b) Is in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person and the Central Repository for Nevada Records of Criminal History, in the manner prescribed in subsection ~~[21,]~~ *20*, of the findings of the hearing examiner.

~~[21.]~~ *20.* Notice as provided pursuant to subsections ~~[18, 19 and 20]~~ *17, 18 and 19* is sufficient if it is mailed to the person's last known address as indicated on the most recent application for registration as a gaming employee or the record of the hearing, or to the person at his place of gaming

employment. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

~~[22.]~~ *21.* The Board shall remove a suspension entered in accordance with subsection ~~[20]~~ *19* and reinstate the registration of a person as a gaming employee upon receipt of verifiable documentation confirming that the person is currently in compliance with the provisions of chapter 179D of NRS.

Sec. 8. NRS 463.337 is hereby amended to read as follows:

463.337 1. If any gaming employee ~~[or independent agent,]~~ who is registered as a gaming employee with the Board ~~[,]~~ is convicted of any violation of this chapter or chapter 463B, 464 or 465 of NRS, or if in investigating an alleged violation of this chapter by any licensee the Commission finds that a registered gaming employee employed by ~~[or a registered independent agent contracting with]~~ the licensee has been guilty of cheating, the Commission shall, after a hearing as provided in NRS 463.310 and 463.312 to 463.3145, inclusive, revoke the registration.

2. The Commission may revoke the registration of a gaming employee ~~[or independent agent]~~ if the Commission finds, after a hearing as provided in NRS 463.310 and 463.312 to 463.3145, inclusive, that the gaming employee ~~[or independent agent]~~ has failed to disclose, misstated or otherwise misled the Board in respect to any fact contained within any application for registration as a gaming employee or, subsequent to being registered as a gaming employee:

(a) Committed, attempted or conspired to do any of the acts prohibited by this chapter or chapter 463B, 464 or 465 of NRS;

(b) Knowingly possessed or permitted to remain in or upon any licensed premises any cards, dice, mechanical device or any other cheating device whatever, the use of which is prohibited by statute or ordinance;

(c) Concealed or refused to disclose any material fact in any investigation by the Board;

(d) Committed, attempted or conspired to commit larceny or embezzlement against a gaming licensee or upon the premises of a licensed gaming establishment;

(e) Been convicted in any jurisdiction other than Nevada of any offense involving or relating to gambling;

(f) Accepted employment without prior Commission approval in a position for which he could be required to be licensed under this chapter after having been denied a license for a reason involving personal unsuitability or after failing to apply for licensing when requested to do so by the Commission;

(g) Been refused the issuance of any license, permit or approval to engage in or be involved with gaming or pari-mutuel wagering in any jurisdiction

other than Nevada, or had any such license, permit or approval revoked or suspended;

(h) Been prohibited under color of governmental authority from being present upon the premises of any gaming establishment or any establishment where pari-mutuel wagering is conducted for any reason relating to improper gambling activities or any illegal act;

(i) Contumaciously defied any legislative investigative committee or other officially constituted bodies acting on behalf of the United States or any state, county or municipality which seeks to investigate crimes relating to gaming, corruption of public officials, or any organized criminal activities; or

(j) Been convicted of any felony or gross misdemeanor, other than one constituting a violation of this chapter or chapter 463B, 464 or 465 of NRS.

3. A gaming employee ~~[or independent agent]~~ whose registration as a gaming employee has been revoked pursuant to this section is entitled to judicial review of the Commission's action in the manner prescribed by NRS 463.315 to 463.318, inclusive.

4. Nothing in this section limits or prohibits the enforcement of NRS 463.165, 463.560, 463.595, 463.637 or 463.645.

Sec. 9. NRS 463.362 is hereby amended to read as follows:

463.362 1. Whenever a ~~[licensee and a]~~ patron *and a licensee, or any person acting on behalf of or in conjunction with a licensee,* have any dispute ~~[as to alleged]~~ *which cannot be resolved to the satisfaction of the patron and which involves:*

(a) Alleged winnings, alleged losses or the *award or distribution of cash, prizes, benefits, tickets or any other item or items in a game, tournament, contest, drawing, promotion or similar activity or event; or*

(b) The manner in which a game *, tournament, contest, drawing, promotion or similar activity or event* is conducted,

➥ the licensee ~~[and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:]~~ *is responsible for notifying the Board or patron in accordance with the provisions of subsection 2, regardless of whether the licensee is directly or indirectly involved in the dispute.*

2. Whenever a dispute described in subsection 1 involves:

(a) At least $500, the licensee shall immediately notify the Board; or

(b) Less than $500, the licensee shall ~~[inform]~~ *notify* the patron of his right to request that the Board conduct an investigation.

~~[➥ The]~~

3. Upon being notified of a dispute, the Board, through an agent, shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

~~[2.]~~ The agent of the Board shall mail written notice to the Board, the licensee and the patron of his decision resolving the dispute within 30 days after the date the Board first receives notification from the licensee or a

request to conduct an investigation from the patron. The failure of the agent to mail notice of his decision within the time required by this subsection does not divest the Board of its exclusive jurisdiction over the dispute.

~~[3.]~~ *4.* Failure of the licensee to notify the Board or ~~[inform the]~~ patron as provided in subsection ~~[1]~~ *2* is grounds for disciplinary action pursuant to NRS 463.310 to 463.3145, inclusive.

~~[4.]~~ *5.* The decision of the agent of the Board is effective on the date the aggrieved party receives notice of the decision. Notice of the decision shall be deemed sufficient if it is mailed to the last known address of the licensee and patron. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the licensee or the patron 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

Sec. 10. NRS 463.4862 is hereby amended to read as follows:

463.4862 "Limited-liability company" means a limited-liability company organized and existing pursuant to the provisions of chapter 86 of NRS ~~[.]~~ *or formed under the laws of any jurisdiction other than this State*.

Sec. 11. NRS 463.4864 is hereby amended to read as follows:

463.4864 "Limited partnership" means a partnership formed by two or more persons pursuant to the terms of chapter 88 of NRS ~~[.]~~ *or the laws of any state other than this State*, having as members one or more general partners and one or more limited partners.

Sec. 12. NRS 463.4865 is hereby amended to read as follows:

463.4865 "Limited partnership interest" means the right of a general or limited partner to receive from a limited partnership:

1. A share of the profits;
2. Any other compensation by way of income; or
3. A return of any or all of his contribution to capital of the limited partnership,

➥ or the right to exercise any of the rights or powers provided in chapter 88 of NRS ~~[.]~~ *or the laws of any state other than this State*, whether directly or indirectly.

Sec. 13. NRS 463.505 is hereby amended to read as follows:

463.505 1. The purported granting of an option to purchase any security issued by a corporation, other than a publicly traded corporation, which holds a state gaming license ~~[.]~~ *or which is a holding company or an intermediary company for an entity that holds a state gaming license* or the purported sale, assignment, transfer, pledge or other disposition of an existing option to acquire such a security is void unless administratively approved in advance by the Chairman of the Board.

2. A request for administrative approval pursuant to subsection 1 must:

(a) Be made on forms approved by the Chairman of the Board; and

(b) To the extent consistent with this section, be considered in all respects as an application.

3. The Chairman of the Board may refer a request for administrative approval to the Board and Commission for consideration or deny the request for administrative approval for any reasonable cause. A denial may be submitted for review by the Board and Commission in the manner set forth by the regulations of the Commission pertaining to the review of administrative approval decisions.

4. The Commission, upon recommendation by the Board, may require a person to apply for a finding of suitability to hold an option to purchase such a security.

Sec. 14. NRS 463.510 is hereby amended to read as follows:

463.510 1. The purported sale, assignment, transfer, pledge, exercise of an option to purchase or other disposition of any security issued by a corporation, other than a publicly traded corporation, which holds a state gaming license *or which is a holding company or an intermediary company for an entity that holds a state gaming license* is void unless approved in advance by the Commission.

2. If at any time the Commission finds that an individual owner of any such security is unsuitable to continue as a gaming licensee in this state, the owner shall immediately offer the security to the issuing corporation for purchase. The corporation shall purchase the security so offered, for cash at fair market value, within 10 days after the date of the offer.

3. Beginning upon the date when the Commission serves notice of a determination of unsuitability pursuant to subsection 2 upon the corporation, it is unlawful for the unsuitable owner:

(a) To receive any dividend or interest upon any such security;

(b) To exercise, directly or through any trustee or nominee, any voting right conferred by such security; or

(c) To receive any remuneration in any form from the corporation, for services rendered or otherwise.

4. Every security issued by a corporation, other than a publicly traded corporation, which holds a state gaming license must bear a statement, on both sides of the certificate evidencing the security, of the restrictions imposed by this section.

Sec. 15. NRS 463.564 is hereby amended to read as follows:

463.564 In order to be eligible to receive a state gaming license, a limited partnership shall:

1. ~~[Be formed under the laws of this State;~~

~~2.]~~ Maintain an office of the limited partnership on the licensed premises;

~~[3.]~~ *2.* Comply with all of the requirements of the laws of this State pertaining to limited partnerships; and

~~[4.]~~ *3.* Maintain a ledger in the principal office of the limited partnership in this State, which must:

(a) At all times reflect the ownership of all interests in the limited partnership; and

(b) Be available for inspection by the Board, Commission and their authorized agents, at all reasonable times without notice.

Sec. 16. NRS 463.5665 is hereby amended to read as follows:

463.5665 1. The purported granting of an option to purchase any interest in a limited partnership which holds a state gaming license *or which is a holding company or an intermediary company for an entity that holds a state gaming license* or the purported sale, assignment, transfer, pledge or other disposition of an existing option to acquire such an interest is ~~[ineffective]~~ *void* unless administratively approved in advance by the Chairman of the Board.

2. A request for administrative approval pursuant to subsection 1 must:

(a) Be made on forms approved by the Chairman of the Board; and

(b) To the extent consistent with this section, be considered in all respects as an application.

3. The Chairman of the Board may refer a request for administrative approval to the Board and Commission for consideration or deny the request for administrative approval for any reasonable cause. A denial may be submitted for review by the Board and Commission in the manner set forth by the regulations of the Commission pertaining to the review of administrative approval decisions.

4. The Commission, upon recommendation by the Board, may require a person to apply for a finding of suitability to hold an option to purchase such an interest.

Sec. 17. NRS 463.567 is hereby amended to read as follows:

463.567 1. The purported sale, assignment, transfer, pledge, exercise of an option to purchase, or other disposition of any interest in a limited partnership which holds a state gaming license *or which is a holding company or an intermediary company for an entity that holds a state gaming license* is ~~[ineffective]~~ *void* unless approved in advance by the Commission.

2. If at any time the Commission finds that an individual owner of any such interest is unsuitable to hold that interest, the Commission shall immediately notify the limited partnership of that fact. The limited partnership shall, within 10 days ~~[from]~~ *after* the date that it receives the notice from the Commission, return to the unsuitable owner, in cash, the amount of his capital account as reflected on the books of the partnership.

3. Beginning on the date when the Commission serves notice of a determination of unsuitability pursuant to subsection 2 upon the limited partnership, it is unlawful for the unsuitable owner:

(a) To receive any share of the profits or interest upon any limited partnership interest;

(b) To exercise, directly or through any trustee or nominee, any voting right conferred by such interest; or

(c) To receive any remuneration in any form from the limited partnership, for services rendered or otherwise.

4. The certificate of limited partnership of any limited partnership holding a state gaming license must contain a statement of the restrictions imposed by this section.

Sec. 18. NRS 463.5731 is hereby amended to read as follows:

463.5731 In order to be eligible to receive a license, a limited-liability company must:

1. ~~[Be formed under the laws of this State;~~

~~2.]~~ Maintain an office of the limited-liability company on the licensed premises;

~~[3.]~~ *2.* Comply with all of the requirements of the laws of this State pertaining to limited-liability companies; and

~~[4.]~~ *3.* Maintain a ledger in the principal office of the limited-liability company in this State, which must:

(a) At all times reflect the ownership of all interests in the limited-liability company; and

(b) Be available for inspection by the Board, Commission and their authorized agents, at all reasonable times without notice.

Sec. 19. NRS 463.57325 is hereby amended to read as follows:

463.57325 1. The purported granting of an option to purchase any interest in a limited-liability company which holds a state gaming license *or which is a holding company or an intermediary company for an entity that holds a state gaming license* or the purported sale, assignment, transfer, pledge or other disposition of an existing option to acquire such an interest is ~~[ineffective]~~ *void* unless administratively approved in advance by the Chairman of the Board.

2. A request for administrative approval pursuant to subsection 1 must:

(a) Be made on forms approved by the Chairman of the Board; and

(b) To the extent consistent with this section, be considered in all respects as an application.

3. The Chairman of the Board may refer a request for administrative approval to the Board and Commission for consideration or deny the request for administrative approval for any reasonable cause. A denial may be submitted for review by the Board and Commission in the manner set forth by the regulations of the Commission pertaining to the review of administrative approval decisions.

4. The Commission, upon recommendation by the Board, may require a person to apply for a finding of suitability to hold an option to purchase such an interest.

Sec. 20. NRS 463.5733 is hereby amended to read as follows:

463.5733 1. The purported sale, assignment, transfer, pledge, exercise of an option to purchase , or other disposition of any interest in a limited-liability company which holds a state gaming license *or which is a holding company or an intermediary company for an entity that holds a state gaming license* is ~~[ineffective]~~ *void* unless approved in advance by the Commission.

2. If at any time the Commission finds that a member is unsuitable to hold an interest in a limited-liability company, the Commission shall immediately notify the limited-liability company of that fact. The limited-liability company shall, within 10 days after it receives the notice from the Commission, return to the member, in cash, the amount of his capital account as reflected on the books of the company.

3. Except as otherwise provided in subsection 2, beginning on the date when the Commission serves notice of a determination of unsuitability pursuant to subsection 2 upon the limited-liability company, it is unlawful for the unsuitable member:

(a) To receive any share of the distribution of profits of the limited-liability company or any payments upon dissolution of the company;

(b) To exercise any voting right conferred by the member's interest in the limited-liability company;

(c) To participate in the management of the limited-liability company; or

(d) To receive any remuneration in any form from the limited-liability company, for services rendered or otherwise.

4. The articles of organization of any limited-liability company holding a state gaming license must contain a statement of the restrictions imposed by this section.

Sec. 21. NRS 463.643 is hereby amended to read as follows:

463.643 1. Each person who acquires, directly or indirectly ~~[, beneficial]~~ *:*

(a) Beneficial ownership of any voting security *; or*

(b) Beneficial or record ownership of any nonvoting security,

➥ in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that his acquisition of that ownership would otherwise be inconsistent with the declared policy of this state.

2. Each person who acquires, directly or indirectly, beneficial *or record* ownership of any debt security in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that his acquisition of the debt security would otherwise be inconsistent with the declared policy of this state.

3. Each person who, individually or in association with others, acquires, directly or indirectly, beneficial ownership of more than 5 percent of any class of voting securities of a publicly traded corporation registered with the Nevada Gaming Commission, and who is required to report, or voluntarily reports, the acquisition to the Securities and Exchange Commission pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall file a copy of that report, and any amendments thereto, with the Nevada Gaming Commission within 10 days after filing that report with the Securities and Exchange Commission.

4. Each person who, individually or in association with others, acquires, directly or indirectly, the beneficial ownership of more than 10 percent of any class of voting securities of a publicly traded corporation registered with the Commission, or who is required to report, or voluntarily reports, such acquisition pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall apply to the Commission for a finding of suitability within 30 days after the Chairman of the Board mails the written notice.

5. A person who acquires ~~[beneficial]~~ *, directly or indirectly:*

(a) Beneficial ownership of any voting security *;* or

(b) Beneficial or record ownership of any nonvoting security or debt security ,

➥ in a publicly traded corporation created under the laws of a foreign country which is registered with the Commission shall file such reports and is subject to such a finding of suitability as the Commission may prescribe.

6. Any person required by the Commission or by this section to be found suitable shall:

(a) Except as otherwise required in subsection 4, apply for a finding of suitability within 30 days after the Commission requests that he do so; and

(b) Together with the application, deposit with the Board a sum of money which, in the opinion of the Board, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application, and deposit such additional sums as are required by the Board to pay final costs and charges.

7. Any person required by the Commission or this section to be found suitable who is found unsuitable by the Commission shall not hold directly or indirectly the ~~[beneficial]~~ *:*

(a) Beneficial ownership of any voting security *;* or

(b) Beneficial or record ownership of any nonvoting security or debt security ,

➥ of a publicly traded corporation which is registered with the Commission beyond the time prescribed by the Commission.

8. The violation of subsection 6 or 7 is a gross misdemeanor.

9. As used in this section, "debt security" means any instrument generally recognized as a corporate security representing money owed and reflected as debt on the financial statement of a publicly traded corporation, including, but not limited to, bonds, notes and debentures.

Sec. 22. NRS 463.645 is hereby amended to read as follows:

463.645 ~~[1.]~~ If any person who is required by or pursuant to this chapter to be licensed or found suitable because of his connection with a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license, or a holding company or intermediary company, including a publicly traded corporation, fails to apply for a license or a finding of suitability after being requested to do so by the

Commission or is denied a license or a finding of suitability, or if his license or finding of suitability is revoked, ~~[and his name has been placed on the list maintained pursuant to subsection 8 of NRS 463.165,]~~ the corporation, partnership, limited partnership, limited-liability company, business organization, holding company, intermediary company or any person who directly or indirectly controls, is controlled by or is under common control with the corporation, partnership, limited partnership, limited-liability company, business organization, holding company or intermediary company shall not, *and any licensee or an affiliate of the licensee shall not,* after receipt of written notice from the Commission:

~~[(a)]~~ *1.* Pay him any remuneration for any service relating to the activities of a licensee, except for amounts due for services rendered before the date of receipt of notice of such action by the Commission. Any contract or agreement for personal services or the conduct of any activity at a licensed gaming establishment between a former employee whose employment was terminated because of failure to apply for a license or a finding of suitability, denial of a license or finding of suitability, or revocation of a license or a finding of suitability, or any business enterprise under the control of that employee and the licensee, holding or intermediary company or registered publicly traded corporation is subject to termination. Every such agreement shall be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the Commission that the business or any person associated therewith is unsuitable to be associated with a gaming enterprise. Failure expressly to include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

~~[(b)]~~ *2.* Enter into any contract or agreement with him or with a business organization that the licensee knows or under the circumstances reasonably should know is under his control which involves the operations of a licensee, without the prior approval of the Commission.

~~[(c)]~~ *3.* Employ him in any position involving the activities of a licensee without prior approval of the Commission.

~~[2. The name of any person who has been denied a license, been found unsuitable or had a license or finding of suitability revoked pursuant to subsection 1 must be included on the list required pursuant to subsection 8 of NRS 463.165.]~~

Sec. 22.5. *NRS 463.650 is hereby amended to read as follows:*

463.650 1. Except as otherwise provided in subsections 2 to 5, inclusive, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain any form of manufacture, selling or distribution of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada or for distribution outside of Nevada without first procuring and maintaining all required federal, state, county and municipal licenses.

2. A lessor who specifically acquires equipment for a capital lease is not required to be licensed under this section or NRS 463.660.

3. The holder of a state gaming license or the holding company of a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license may, within 2 years after cessation of business or upon specific approval by the Board, dispose of by sale in a manner approved by the Board, any or all of its gaming devices, including slot machines, mobile gaming systems and cashless wagering systems, without a distributor's license. In cases of bankruptcy of a state gaming licensee or foreclosure of a lien by a bank or other person holding a security interest for which gaming devices are security in whole or in part for the lien, the Board may authorize the disposition of the gaming devices without requiring a distributor's license.

4. The Commission may, by regulation, authorize a person who owns:

(a) Gaming devices for home use in accordance with NRS 463.160; or

(b) Antique gaming devices,

➥ to sell such devices without procuring a license therefor to residents of jurisdictions wherein ownership of such devices is legal.

5. Upon approval by the Board, a gaming device owned by:

(a) A law enforcement agency;

(b) A court of law; or

(c) A gaming device repair school licensed by the Commission on Postsecondary Education,

➥ may be disposed of by sale, in a manner approved by the Board, without a distributor's license. An application for approval must be submitted to the Board in the manner prescribed by the Chairman.

6. Any person who the Commission determines is a suitable person to receive a license under the provisions of this section and NRS 463.660 may be issued a manufacturer's or distributor's license. The burden of proving his qualification to receive or hold a license under this section and NRS 463.660 is at all times on the applicant or licensee.

7. Every person who must be licensed pursuant to this section is subject to the provisions of NRS 463.482 to 463.645, inclusive, unless exempted from those provisions by the Commission.

8. The Commission may exempt, for any purpose, a manufacturer, seller or distributor from the provisions of NRS 463.482 to 463.645, inclusive, if the Commission determines that the exemption is consistent with the purposes of this chapter.

9. As used in this section:

(a) "Antique gaming device" means a gaming device that was manufactured before ~~[1951.]~~ *1961.*

(b) "Holding company" has the meaning ascribed to it in NRS 463.485.

Sec. 23. ~~[NRS 464.020 is hereby amended to read as follows:~~

~~464.020 1. The Nevada Gaming Commission is charged with the administration of this chapter for the protection of the public and in the public interest.~~

~~2. The Nevada Gaming Commission may issue licenses permitting the conduct of the pari-mutuel system of wagering, including off-track pari-mutuel wagering, and may adopt, amend and repeal regulations relating to the conduct of such wagering.~~

~~3. The wagering must be conducted only by the licensee at the times determined by the Nevada Gaming Commission and only:~~

~~(a) Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or~~

~~(b) Within a licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering.~~

~~→ This subsection does not prohibit a person licensed to accept, pursuant to regulations adopted by the Nevada Gaming Commission, off-track pari-mutuel wagers from accepting wagers made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal. *This subsection does not prohibit a patron within the State of Nevada from placing off-track pari-mutuel wagers by wire communication in other states in which such wagering is legal or in places outside the United States in which such wagering is legal, if such wagers are placed in compliance with all applicable laws and regulations of the state or place outside the United States.*~~

~~4. The regulations of the Nevada Gaming Commission may include, without limitation:~~

~~(a) Requiring fingerprinting of an applicant or licensee, or other method of identification.~~

~~(b) Requiring information concerning an applicant's antecedents, habits and character.~~

~~(c) Prescribing the method and form of application which any applicant for a license issued pursuant to this chapter must follow and complete before consideration of his application by the Nevada Gaming Commission.~~

~~(d) Prescribing the permissible communications technology and requiring the implementation of border control technology that will ensure that a person cannot place a wager with a race book in this State from another state or another location where placing such a wager is illegal.~~

~~5. The Nevada Gaming Commission may appoint an Off-Track Pari-Mutuel Wagering Committee consisting of 11 persons who are licensed to engage in off-track pari-mutuel wagering. If the Commission appoints such a Committee, it shall appoint to the Committee:~~

~~(a) Five members from a list of nominees provided by the State Association of Gaming Establishments whose members collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the preceding year;~~

~~(b) Three members who, in the preceding year, paid gross revenue fees pursuant to NRS 463.370 in an amount that was less than the average amount of gross revenue fees paid by licensees engaged in off-track pari-mutuel wagering in the preceding year; and~~

~~(c) Three other members.~~

~~4. If a vacancy occurs in a position on the Committee for any reason, including, but not limited to, termination of a member, the Commission shall appoint a successor member who satisfies the same criteria in paragraph (a), (b) or (c) that applied to the member whose position has been vacated.~~

~~6. If the Nevada Gaming Commission appoints an Off-Track Pari-Mutuel Wagering Committee pursuant to subsection 5, the Commission shall:~~

~~(a) Grant to the Off-Track Pari-Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering with:~~

~~(1) A person who is licensed or otherwise permitted to operate a wagering pool in another state; and~~

~~(2) A person who is licensed pursuant to chapter 464 of NRS as an operator of a system.~~

~~(b) Require the Off-Track Pari-Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off-track pari-mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race pool that the Committee has negotiated to bring into or provide within this State.~~

~~7. The Nevada Gaming Commission shall, and it is granted the power to, demand access to and inspect all books and records of any person licensed pursuant to this chapter pertaining to and affecting the subject of the license.]~~ *(Deleted by amendment.)*

Sec. 24. NRS 465.080 is hereby amended to read as follows:

465.080 1. It is unlawful for any licensee, employee or other person , *not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment,* to *possess,* use , *sell or manufacture* counterfeit chips, counterfeit debit instruments or other counterfeit wagering instruments in a gambling game, associated equipment or a cashless wagering system.

2. *It is unlawful for any licensee, employee or other person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to possess, use, sell or manufacture any counterfeit instruments, counterfeit tickets or other counterfeit items that are used to determine the outcome of any contest or promotional activity conducted by or on behalf of any licensee.*

3. It is unlawful for any person, in playing or using any gambling game, associated equipment or cashless wagering system designed to be played with, receive or be operated by chips, tokens, wagering credits or other

wagering instruments approved by the State Gaming Control Board or by lawful coin of the United States of America:

(a) Knowingly to use other than chips, tokens, wagering credits or other wagering instruments approved by the State Gaming Control Board or lawful coin, legal tender of the United States of America, or to use coin or tokens not of the same denomination as the coin or tokens intended to be used in that gambling game, associated equipment or cashless wagering system; or

(b) To use any device or means to violate the provisions of this chapter.

~~[3.]~~ *4.* It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to have on his person or in his possession on or off the premises of any licensed gaming establishment any device intended to be used to violate the provisions of this chapter.

~~[4.]~~ *5.* It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to have on his person or in his possession on or off the premises of any licensed gaming establishment any key or device known to have been designed for the purpose of and suitable for opening, entering or affecting the operation of any gambling game, cashless wagering system or drop box, or any electronic or mechanical device connected thereto, or for removing money or other contents therefrom.

~~[5.]~~ *6.* It is unlawful for any person *, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment,* to have on his person or in his possession any paraphernalia for manufacturing slugs. As used in this subsection, "paraphernalia for manufacturing slugs" means the equipment, products and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing or concealing a counterfeit facsimile of the chips, tokens, debit instruments or other wagering instruments approved by the State Gaming Control Board or a lawful coin of the United States, the use of which is unlawful pursuant to subsection ~~[2.]~~ *3.* The term includes, but is not limited to:

(a) Lead or lead alloys;

(b) Molds, forms or similar equipment capable of producing a likeness of a gaming token or United States coin;

(c) Melting pots or other receptacles;

(d) Torches;

(e) Tongs, trimming tools or other similar equipment; and

(f) Equipment which can be reasonably demonstrated to manufacture facsimiles of debit instruments or wagering instruments approved by the State Gaming Control Board.

~~[6.]~~ *7.* Possession of more than one of the devices, equipment, products or materials described in this section permits a rebuttable inference that the possessor intended to use them for cheating.

Sec. 25. ~~[NRS 465.094 is hereby amended to read as follows:~~

~~465.094 The provisions of NRS 465.092 and 465.093 do not apply to a wager placed by a person for his own benefit or, without compensation, for the benefit of another that is accepted or received by, placed with, or sent, transmitted or relayed to:~~

~~1. A race book or sports pool that is licensed pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering;~~

~~2. A person who is licensed to engage in off-track pari-mutuel wagering pursuant to chapter 464 of NRS, if the wager is accepted or received within this State and otherwise complies with subsection 3 of NRS 464.020 and all other applicable laws and regulations concerning wagering;~~

~~*3. A person who is licensed to accept off-track pari-mutuel horse race wagers in another state in which such wagering is legal or in a place outside the United States in which such wagering is legal, if such wagering complies with all applicable laws and regulations of the state or place outside the United States;*~~

~~*4.* A person who is licensed to operate a mobile gaming system pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering; or~~

[4.] ~~*5.* Any other person or establishment that is licensed to engage in wagering pursuant to title 41 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering.~~] *(Deleted by amendment.)*

Sec. 26. 1. This section and section 24 of this act become effective upon passage and approval.

2. Sections 1 to 23, inclusive, and 25 of this act become effective on July 1, 2007.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 593.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 802.

"SUMMARY—Makes various changes relating to the Legislature and the Legislative Counsel Bureau. (BDR 17-1081)"

"AN ACT relating to the Legislative Branch of Government; making various changes relating to the Legislature and the Legislative Counsel Bureau; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes various changes relating to the Legislature and the Legislative Counsel Bureau. Section 1 of this bill provides that *salary paid for certain additional hours worked by executive, administrative, professional or supervisory employees of the Legislative Counsel Bureau constitutes compensation for the purposes of retirement. Section 2 of this bill provides that* the fee for a certain bill service during a legislative session will be set by the Director of the Legislative Counsel Bureau instead of being specified in the statute. (NRS 218.185) Section ~~[2]~~ *3* of this bill eliminates the requirement that the Legislative Counsel represent any Legislator in any matter before the Commission on Ethics. (NRS 218.697) Section ~~[3]~~ *4* of this bill transfers authority for the portrait of the Governor from the Legislative Commission to the Director of the Department of Cultural Affairs. (NRS 223.121) Sections ~~[4 and 7]~~ *5 and 9* of this bill provide for title to all property reserved for the use of the Legislature to be held in the name of the Legislature. (NRS 331.135) Section ~~[4.5]~~ *6* of this bill exempts the Legislative Branch of Government from certain provisions relating to the State Public Works Board. Sections ~~[5 and 8]~~ *7 and 10* of this bill clarify provisions concerning the appointment of members to the Nevada Silver Haired Legislative Forum. (NRS 427A.330) Section ~~[6]~~ *8* of this bill clarifies the prospective impact of the cost-of-living increases enacted for Legislators. (Chapter 329, Statutes of Nevada 2005, p. 1182) *Section 11 of this bill authorizes a person who received payment for hours worked before and during the 2007 regular session of the Legislature that would have been considered as compensation pursuant to section 1 of this act to make the necessary contributions to the Public Employees' Retirement System to have that payment considered as compensation.*

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

Section 1. *Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. For the purposes of NRS 286.025, salary paid for all hours worked by an executive, administrative, professional or supervisory employee of the Legislative Counsel Bureau in addition to the employee's regularly scheduled workday or 40-hour workweek in the fiscal year that includes a regular session of the Legislature, up to a maximum number of hours designated as required for the classification by the Director of the Legislative Counsel Bureau and approved by the Legislative Commission, constitutes "compensation." The Legislative Counsel Bureau and such employees shall make the appropriate contributions to the Public Employees' Retirement System for such compensation.

2. The maximum number of additional hours that may be designated as required for a classification pursuant to subsection 1 is 750.

~~[Section 1.]~~ *Sec. 2.* NRS 218.185 is hereby amended to read as follows:

218.185 1. During each session of the Legislature, employees of the Senate and Assembly shall compile and prepare sets of books containing bills, resolutions, journals and histories for:

(a) The officers and members of the Senate and Assembly without cost to them.

(b) Selected staff members of the Legislative Counsel Bureau without cost to them.

(c) The press room for use of accredited press representatives, four such sets of books without cost to them.

(d) Persons other than those enumerated in paragraphs (a), (b) and (c) upon application to the Legislative Counsel Bureau and the payment of a fee ~~[of $150.]~~ *established by the Director of the Legislative Counsel Bureau.*

2. All fees collected under the provisions of this section must be deposited with the State Treasurer for credit to the Legislative Fund in accordance with the provisions of NRS 353.250.

~~[Sec. 2.]~~ *Sec. 3.* NRS 218.697 is hereby amended to read as follows:

218.697 1. ~~[Upon request, the Legislative Counsel shall represent any Legislator in any matter before the Commission on Ethics.~~

~~2.]~~ When deemed necessary or advisable to protect the official interests of the Legislature or one or more legislative committees, the Legislative Commission, or the Chairman of the Legislative Commission in cases where action is required before a meeting of the Legislative Commission is scheduled to be held, may direct the Legislative Counsel and his staff to appear in, commence, prosecute, defend or intervene in any action, suit, matter, cause or proceeding in any court or agency of this State or of the United States.

~~[3.]~~ *2.* The Legislative Commission may authorize payment of the expenses and costs incurred pursuant to this section from the Legislative Fund.

~~[Sec. 3.]~~ *Sec. 4.* NRS 223.121 is hereby amended to read as follows:

223.121 1. The ~~[Legislative Commission]~~ *Director* may, upon the election of each new Governor, enter into a contract with an artist for the purpose of procuring a portrait of that Governor for display in the Capitol Building.

2. The portrait must be painted in oil colors and appropriately framed. The painting and framing must be done in the same manner, style and size as the portraits of former Governors of the State displayed in the Capitol Building.

3. The contract price must not exceed the appropriation made for this purpose to the Account for the Governor's Portrait in the State General Fund. The contract price must include the cost of the portrait and the frame.

4. The portrait and frame are subject to the approval of the Governor.

5. Upon delivery of the approved, framed portrait to the Secretary of State and its acceptance by the ~~[Legislative Commission,]~~ *Director,* the State Controller shall draw his warrant in an amount equal to the contract price and

the State Treasurer shall pay the warrant from the Account for the Governor's Portrait. Any balance remaining in the Account immediately lapses to the State General Fund.

6. As used in this section, "Director" means the Director of the Department of Cultural Affairs.

~~[Sec. 4.]~~ *Sec. 5.* NRS 331.135 is hereby amended to read as follows:

331.135 1. The Legislature reserves the supervision and control, both during and between legislative sessions, of:

(a) The entire legislative building, including its chambers, offices and other rooms, and its furnishings and equipment.

(b) A portion of the parcel of land bounded on the west by Carson Street, on the south by Fifth Street, on the east by Fall Street, and on the north by the sidewalk along the south fence of the capitol grounds, situated in a portion of the Capitol Complex, as shown on the Record of Survey Map No. 297, Official Records of Carson City, Nevada, File No. 3043, section 17, T. 15 N., R. 20 E., M.D.M., more particularly described as follows:

Beginning at the southwest corner of block 36, Sears , Thompson *and* Sears Division, as shown on that record of survey;

Thence N 89°52´32˝ E, a distance of 443.93 feet;

Thence N 00°12´15˝ E, a distance of 302.14 feet;

Thence N 44°47´45˝ W, a distance of 189.88 feet to the north side of an existing sidewalk;

Thence N 89°39´33˝ W, along that sidewalk, a distance of 97.13 feet to the east side of an existing sidewalk;

Thence N 00°14´26˝ E, along that sidewalk, a distance of 270.00 feet, more or less, to the north line of a sidewalk;

Thence N 89°47´45˝ W, along that sidewalk, a distance of 212.50 feet, to the east right-of-way line of Carson Street;

Thence S 00°13´08˝ W, along that line, a distance of 709.40 feet, more or less, to the true point of beginning.

Containing 5.572 acres, more or less.

(c) The entire parcel of land bounded on the north by Fifth Street, on the south by Sixth Street, on the east by Stewart Street and on the west by Plaza Street, also described as blocks 2 and 3, Pierson and Goodridge Addition; and that portion of Fall Street between Fifth Street and Sixth Street abandoned by Carson City on April 26, 1990, Meeting Agenda Item 9 M-89/90-10. Also the entire parcel of land bounded on the north by the south boundary line of block 2, Pierson and Goodridge Addition, on the south by Seventh Street, on the east by Stewart Street and on the west by Fall Street, and further described as block 7, Pierson and Goodridge Addition.

(d) The entire parcel of land bounded on the north by Sixth Street, on the south by Seventh Street, on the east by Fall Street, and on the west by Plaza Street, also described as block 6, Pierson and Goodridge Addition.

(e) The entire parcel of land bounded on the north by Fourth Street, on the west by Stewart Street, on the south by Fifth Street, and on the east by the

abandoned right-of-way of Valley Street, also described as block 39 of Sears , Thompson *and* Sears Division of Carson City; and the west 30.00 feet of the abandoned right-of-way of Valley Street abutting block 39 of Sears , Thompson *and* Sears Division. Excepting therefrom that portion of Stewart and Fifth Streets deeded to the State of Nevada through its Department of Transportation as recorded in book 283, page 208, of Deeds, Carson City, Nevada.

(f) *The entire parcel of land bounded on the north by Third Street, on the west by Stewart Street, on the south by Fourth Street, and on the east by Valley Street, also described as block 22 of Sears, Thompson and Sears Division of Carson City; and the land occupied by the state printing warehouse in block 21 of Sears, Thompson and Sears Division of Carson City; and the abandoned right-of-way of Fourth Street between block 22 of Sears, Thompson and Sears Division and block 39 of Sears, Thompson and Sears Division of Carson City. Excepting therefrom that portion of Stewart Street deeded to the State of Nevada through its Department of Transportation as recorded in book 283, page 208, of Deeds, Carson City, Nevada.*

(g) Any other property acquired for the use of the Legislature or its staff.

➥ *Title to the property described in this subsection must be held in the name of the Legislature of the State of Nevada.*

2. The Director of the Legislative Counsel Bureau:

(a) Shall provide an individual office for each Legislator whose position as an officer or as a chairman of a committee does not otherwise entitle him to occupy an assigned office.

(b) May assign the use of space in the legislative building or other legislative facilities or on the legislative grounds in such a manner as the Legislative Commission prescribes.

3. The Director of the Legislative Counsel Bureau shall cause the legislative building, chambers and grounds and other legislative facilities to be kept in good repair, clean, orderly and presentable as befits public property and the dignity of the Legislature. For this purpose he may, in addition to his general power to employ or contract for the services of personnel, contract with any private enterprise or governmental agency for the provision of appropriate services.

~~[Sec. 4.5.]~~ *Sec. 6.* NRS 341.158 is hereby amended to read as follows:

341.158 The provisions of ~~[NRS 341.141 to 341.155, inclusive,]~~ *this chapter* do not ~~[require]~~ *apply to* the Legislative Branch of government . ~~[to use the services of the Board.]~~ The Legislature may require the Board to provide the services described in ~~[those sections]~~ *NRS 341.141 to 341.155, inclusive,* for particular projects for the Legislative Branch of government.

~~[Sec. 5.]~~ *Sec. 7.* NRS 427A.330 is hereby amended to read as follows:

427A.330 1. The Legislative Commission shall appoint to the Nevada Silver Haired Legislative Forum a number of members equal to the number of State Senators. The persons appointed to the Forum must be the persons

nominated pursuant to this section. Each member of the Senate shall, after consulting with the members of the Assembly who reside within his senatorial district, nominate a person who meets the requirements for appointment to the Forum set forth in NRS 427A.340.

2. Appointments to the Nevada Silver Haired Legislative Forum must be made by the Legislative Commission before December ~~[1 of an odd-numbered year. The term of a member begins on December 1 of the odd-numbered year of appointment.~~

~~3. The members of the Nevada Silver Haired Legislative Forum from Clark County Senatorial Districts 2, 3, 4, 7 and 8, Washoe County Senatorial Districts 1 and 3, the Capital Senatorial District and the Western Nevada Senatorial District serve an initial term of 1 year. The members of the Nevada Silver Haired Legislative Forum from the remaining senatorial districts serve an initial term of 2 years.]~~ *31 of the second year of a member's term.* After the initial terms, each member *of the Forum* serves a term of 2 years. *Each member of the Forum continues to serve until his successor is appointed.*

~~[Sec. 6.]~~ *Sec. 8.* Chapter 329, Statutes of Nevada 2005, at page 1182, is hereby amended by adding thereto a new section to be designated as section 8, immediately following section 7, to read as follows:

Sec. 8. The increases in the compensation for Senators and Assemblymen pursuant to the amendatory provisions of section 7 of this act must be calculated based only upon increases in the salaries of the classified employees of this State that take effect on or after November 2, 2004.

~~[Sec. 7.]~~ *Sec. 9.* The State Land Registrar shall, as soon as practicable after the effective date of this act, execute and file all necessary and appropriate documents to provide that title to property described in subsection 1 of NRS 331.135 is held in the name of the Legislature of the State of Nevada.

~~[Sec. 8.]~~ *Sec. 10.* On or before December 31, 2007, or as soon thereafter as practicable, the Legislative Commission shall appoint new members of the Nevada Silver Haired Legislative Forum pursuant to NRS 427A.330, as amended by section ~~[5]~~ *7* of this act. The Legislative Commission shall appoint to terms ending on:

1. December 31, 2008, members nominated by Senators representing Clark County Senatorial Districts 1, 5, 9, 10 and 12, Washoe County Senatorial Districts 1 and 4, the Central Nevada Senatorial District and the Rural Nevada Senatorial District.

2. December 31, 2009, members nominated by Senators representing Clark County Senatorial Districts 2, 3, 4, 6, 7, 8 and 11, Washoe County Senatorial Districts 2 and 3, and the Capital Senatorial District.

➥ The terms of the members of the Nevada Silver Haired Legislative Forum as of the effective date of this act continue until their successors are appointed pursuant to this section. A member may be reappointed.

Sec. 11. *A person who worked hours before and during the 2007 regular session of the Legislature that would have been considered as compensation pursuant to the provisions of section 1 of this act, had that section been in effect, may elect to have his payment for those hours, up to the limit established for his classification, and in no case more than 750 hours, considered as compensation by:*

1. Notifying the Public Employees' Retirement System of his election; and

2. Paying the amount necessary to make both the employer and employee contributions to the System on the payment for the additional hours that the person desires to have considered as compensation. The Legislative Counsel Bureau shall not make any portion of the required contribution.

➥ *The election and payment must be made on or before January 1, 2008.*

~~[Sec. 9.]~~ *Sec. 12.* *1.* This *section and sections 2 to 11, inclusive, of this* act ~~[becomes]~~ *become* effective upon passage and approval.

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

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Joint Resolution No. 10.

Resolution read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 866.

"SUMMARY—Urges Congress ~~[not to reauthorize]~~ *to reevaluate* the "fast track" approval of international trade agreements. (BDR R-1295)"

"ASSEMBLY JOINT RESOLUTION—Urging Congress ~~[not to reauthorize]~~ *to reevaluate* the "fast track" approval of international trade agreements."

WHEREAS, As international trade has evolved in recent years under the "fast track" authority by which Congress reviews international trade agreements involving the United States, the authority for which will expire on June 30, 2007, significant questions have developed with respect to the continuing ability of states to retain their character, environmental controls and quality of life; and

WHEREAS, Under "fast track" rules, the review of complex trade agreements by Congress is limited to a vote to approve or reject the agreements, after limited time for consideration, without the possibility of amendments; and

WHEREAS, Trade agreements today have an impact which extends significantly beyond the bounds of traditional trade matters such as tariffs and quotas, and instead grant foreign investors and service providers certain rights and privileges regarding acquisition of land and facilities and regarding operations within a state's territory, subject state laws to challenge as

"non-tariff barriers to trade" in the binding dispute resolution bodies that accompany the pacts and place limits on the future policy options of state legislatures; and

WHEREAS, Despite the demonstrated variety of significant impacts that trade and investment agreements have on state governance, taxation authority, environmental protection, land use regulation and many other areas of state interest, states and local governments have not received assurances that their concerns will be adequately addressed in any "fast track" renewal process; and

WHEREAS, Federal legislation should clarify the negotiating agenda of the United States in a manner that establishes a stronger role for states and should include an explicit mechanism for the prior informed consent of affected state legislatures; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature hereby urges Congress ~~[not to reauthorize the "fast track" approval of international trade agreements, and instead replace that authority with a more democratic, inclusive]~~ *to reevaluate the "fast track" approval of international trade agreements, and to consider replacing that authority with a more democratic, inclusive and deliberative* mechanism which takes into consideration the concerns of state legislatures and authorizes their participation in the international trade agreement process; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 1:49 p.m.

SENATE IN SESSION

At 1:51 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bills Nos. 13, 42, 56, 115, 201, 215, 230, 235, 259, 296, 331, 352, 359, 391, 421, 446, 483, 493, 507, 512, 516, 533, 540, 549, 554, 562, 569, 570, 576, 585; Assembly Joint Resolutions Nos. 7, 9; Assembly Joint Resolution No. 16 of the 73rd Session be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator Raggio.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 38.

Bill read third time.

Roll call on Senate Bill No. 38:

YEAS—20.

NAYS—None.

EXCUSED—Amodei.

Senate Bill No. 38 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 90.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 775.

"SUMMARY—Revises provisions relating to the Nevada Commission on Homeland Security. (BDR 19-299)"

"AN ACT relating to homeland security; revising the composition of voting members of the Nevada Commission on Homeland Security; authorizing the Chairman of the Commission to appoint nonmembers to certain committees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill adds an employee of the largest incorporated city in each county whose population is 400,000 or more to the list of voting members who must be appointed by the Governor to the Nevada Commission on Homeland Security. Section 1 also changes the status of the officer designated by the United States Department of Homeland Security and the agent in charge of the office of the Federal Bureau of Investigation in this State to serve on the Nevada Commission on Homeland Security from voting members to nonvoting members. (NRS 239C.120)

Section 2 of this bill clarifies that the Chairman of the Nevada Commission on Homeland Security is authorized to appoint any person he deems appropriate to serve on a committee to assist the Commission so long as one member of the Commission is appointed to the committee. In addition, section 2 provides that *if* a member of such a committee ~~[who is not a member of the Commission is not entitled to compensation, but may receive a per diem allowance and travel expenses. If the member]~~ is a public

employee, he must ~~[also]~~ be given leave with pay *to serve on the committee* without reducing any of his accrued leave. (NRS 239C.170)

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

Section 1. NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission 14 voting members that he determines to be appropriate and who serve at his pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more;

(b) The chief of the county fire department in each county whose population is 100,000 or more;

(c) ~~[The agent in charge of the office of the Federal Bureau of Investigation in this State; and~~

~~(d) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; and~~

~~(e)]~~ A member of the medical community in a county whose population is 400,000 or more *; and*

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more.

3. *The Governor shall appoint:*

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; and

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State,

➥ *as nonvoting members of the Commission.*

4. The Senate Majority Leader shall appoint one member of the Senate as a nonvoting member of the Commission.

~~[4.]~~ *5.* The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

~~[5.]~~ *6.* Except for the initial members, the term of office of each member of the Commission who is a Legislator is 2 years and commences on July 1 of the year of appointment.

~~[6.]~~ *7.* The Governor or his designee shall:

(a) Serve as Chairman of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chairman of the Commission.

Sec. 2. NRS 239C.170 is hereby amended to read as follows:

239C.170 *1.* The Chairman of the Commission shall, with the approval of the Commission, appoint a Committee on Finance and any other committees deemed necessary by the Chairman to assist in carrying out the duties of the Commission. The Chairman of the Commission shall appoint to

a committee the number of voting members or nonvoting members, or both, that he determines to be appropriate . ~~[.]~~ *The Chairman may appoint any person he deems appropriate to serve on a committee,* except that a committee must include at least one member of the Commission. At its first meeting and annually thereafter, a committee shall select a chairman and a vice chairman from the members of the committee.

2. ~~[A]~~ If a member of a committee formed pursuant to subsection 1 ~~[who is not a member of the Commission is not entitled to receive compensation for service on the committee, except that the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. If the member]~~ is a public employee, his employer must grant him administrative leave from his duties to serve on ~~[such a]~~ the committee without loss of his regular compensation and without reducing the amount of any other accrued leave he may have.

Sec. 3. This act becomes effective upon passage and approval.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 173.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 776.

"SUMMARY—Revises provisions relating to ~~[the expenditure of]~~ money received from the Federal Government to prevent or respond to acts of terrorism. (BDR 31-224)"

"AN ACT relating to public financial administration; revising provisions relating to ~~[the expenditure of]~~ money received from the Federal Government to prevent or respond to acts of terrorism; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada Commission on Homeland Security is entrusted with various duties designed to protect residents of this State and visitors to this State from acts of terrorism and related emergencies. (NRS 239C.030, 239C.120, 239C.160) Sections 1 and 2 of this bill require that agencies and other entities within the Executive Branch of State Government other than the Nevada National Guard ~~[apply to and obtain the written approval of]~~ *enter into a memorandum of understanding with* the Nevada Commission on Homeland Security *pursuant to which the agency agrees to make certain periodic reports to the Commission,* before ~~[making expenditures of money received from]~~ *the agency requests money from* the Federal Government for projects or programs to prevent or respond to acts of terrorism.

Under existing law, if the State or a city or county is approved to receive money from any public or private source to pay for projects or programs to prevent or respond to acts of terrorism, the State or the city or county, as applicable, is required to submit to the Nevada Commission on Homeland Security a written report detailing the amount of money that will be received and the purposes for which it will be used. (NRS 239C.070, 239C.300) Section 3 of this bill requires a local government that receives money directly from the Federal Government to pay for projects or programs to prevent or respond to acts of terrorism, to submit to the Commission a written report setting forth the amount of money that the local government received directly from the Federal Government and a general description of the purposes for which it was spent ~~[.]~~ *and quarterly reports detailing expenditures.* (NRS 239C.300) In addition to cities and counties, this reporting requirement applies to local governments such as towns, school districts and general improvement districts. (NRS 239C.070, 239C.300, 354.474)

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~If~~ Before a department, institution or agency of the Executive Department of the State Government other than the Nevada National Guard ~~[receives from]~~ submits to the Federal Government a request for money in the form of a grant, loan or appropriation, or in any other form, ~~[the department, institution or agency must, before it expends such money]~~ to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to or recovery from acts of terrorism, ~~[apply to and receive written approval for the expenditure from]~~ the department, institution or agency must enter into a written memorandum of understanding with the Nevada Commission on Homeland Security pursuant to ~~[subsection 7 of NRS 239C.160.]~~ which the department, institution or agency agrees to report to the Commission on a quarterly basis:

(a) Regarding the status of the request; and

(b) In accordance with subsection 1 of NRS 239C.300, if the request is approved and the department, institution or agency receives money in connection with the request.

2. The provisions of subsection 1 must not be applied in any manner which would result in a loss of money for a project or program relating to the prevention of detection of, mitigation of, preparedness for, response to or recovery from acts of terrorism.

3. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 239C.030.

Sec. 2. NRS 239C.160 is hereby amended to read as follows:

239C.160 The Commission shall, within the limits of available money:

1. Make recommendations to the Governor, the Legislature, agencies of this State, political subdivisions, businesses located within this State and private persons who reside in this State with respect to actions and measures that may be taken to protect residents of this State and visitors to this State from potential acts of terrorism and related emergencies.

2. Propose goals and programs that may be set and carried out, respectively, to counteract or prevent potential acts of terrorism and related emergencies before such acts of terrorism and related emergencies can harm or otherwise threaten residents of this State and visitors to this State.

3. With respect to buildings, facilities, geographic features and infrastructure that must be protected from acts of terrorism and related emergencies to ensure the safety of the residents of this State and visitors to this State, including, without limitation, airports other than international airports, the Capitol Complex, dams, gaming establishments, governmental buildings, highways, hotels, information technology infrastructure, lakes, places of worship, power lines, public buildings, public utilities, reservoirs, rivers and their tributaries, and water facilities:

(a) Identify and categorize such buildings, facilities, geographic features and infrastructure according to their susceptibility to and need for protection from acts of terrorism and related emergencies; and

(b) Study and assess the security of such buildings, facilities, geographic features and infrastructure from acts of terrorism and related emergencies.

4. Examine the use, deployment and coordination of response agencies within this State to ensure that those agencies are adequately prepared to protect residents of this State and visitors to this State from acts of terrorism and related emergencies.

5. Assess, examine and review the use of information systems and systems of communication used by response agencies within this State to determine the degree to which such systems are compatible and interoperable. After conducting the assessment, examination and review, the Commission shall:

(a) Establish a state plan setting forth criteria and standards for the compatibility and interoperability of those systems when used by response agencies within this State; and

(b) Advise and make recommendations to the Governor relative to the compatibility and interoperability of those systems when used by response agencies within this State, with particular emphasis upon the compatibility and interoperability of public safety radio systems.

6. Assess, examine and review the operation and efficacy of telephone systems and related systems used to provide emergency 911 service.

7. ~~*[Review and, within 90 business days after the date of receipt, approve or deny in writing an application received pursuant to section 1 of this act. The Commission shall, in consultation with the Division, adopt regulations establishing criteria for determining whether to approve or deny an application received pursuant to section 1 of this act. The provisions of this*~~

~~*subsection must not be applied in any manner which would result in a loss of money for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to or recovery from acts of terrorism.]*~~ *Enter into written memoranda of understanding with departments, institutions and agencies of the Executive Department of the State Government other than the Nevada National Guard to carry out the provisions of section 1 of this act.*

8. To the extent practicable, cooperate and coordinate with the Division to avoid duplication of effort in developing policies and programs for preventing and responding to acts of terrorism and related emergencies.

~~[8.]~~ *9.* Perform any other acts related to their duties set forth in subsections 1 to ~~[7,]~~ *8*, inclusive, that the Commission determines are necessary to protect or enhance:

(a) The safety and security of the State of Nevada;

(b) The safety of residents of the State of Nevada; and

(c) The safety of visitors to the State of Nevada.

Sec. 3. NRS 239C.300 is hereby amended to read as follows:

239C.300 1. If the State or a political subdivision submits an application to and is approved to receive money from the Federal Government, this State, any other state, a local government, any agency or instrumentality of those governmental entities, or any private entity, to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to ~~[and]~~ *or* recovery from acts of terrorism, the State or political subdivision shall, not later than 60 days after receiving such approval, submit to the Commission a written report that includes, without limitation:

(a) The total amount of money that the State or political subdivision has been approved to receive for the project or program;

(b) A description of the project or program, unless the State or political subdivision previously submitted a written report pursuant to this section relating to the same project or program; and

(c) The items to be paid for with the money that the State or political subdivision has been approved to receive for the project or program.

➥ *After submission of this report, the State or political subdivision shall, on a quarterly basis, submit to the Commission a written report detailing the expenditures of the money until all the money has been expended.*

2. *In addition to the reporting requirements of subsection 1, if a local government receives directly from the Federal Government money in the form of a grant, loan or appropriation, or in any other form, to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to or recovery from acts of terrorism, the local government shall submit to the Commission a written report that includes, without limitation:*

(a) The total amount of money that the local government received directly from the Federal Government for the project or program; and

(b) A general description of the project or program for which the money received directly from the Federal Government was expended.

➥ *The Commission shall adopt such regulations as are necessary to carry out the provisions of this subsection. The regulations so adopted must include, without limitation, the time within which and the frequency with which a local government must submit the reports described in this subsection. The regulations so adopted must not require a local government to submit the reports described in this subsection more frequently than once each ~~[year.]~~ quarter.*

3. A project or program for which the State or a ~~[political subdivision]~~ *local government* is required to report the receipt of money pursuant to subsection 1 *or 2* includes, without limitation, a project or program related to:

(a) Homeland security;

(b) Emergency management;

(c) Health or hospitals;

(d) Emergency medical services; and

(e) Chemical, biological, radiological, nuclear, explosive, agricultural or environmental acts of terrorism.

~~[3.]~~ *4.* Any grant related to terrorism that is administered by the Division and is provided to a political subdivision must be approved by the local emergency planning committee.

5. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474. The term includes a political subdivision.

Sec. 4. This act becomes effective on July 1, 2007.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 393.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 777.

"SUMMARY—Makes various changes concerning transportation. (BDR ~~[43-109)"]~~ *58-109)*

"AN ACT relating to transportation; requiring employees of the Nevada Transportation Authority to carry identification and wear specified clothing; requiring certain employees of the Authority to receive certain training; ~~[providing for an investigation, hearing and appeals process for complaints against an employee of the Authority;]~~ changing the name of the "Transportation Services Authority" to the "Nevada Transportation Authority"; requiring the Authority to appoint a Deputy Commissioner; providing the qualifications and duties of the Deputy Commissioner; prohibiting a member of the Authority from taking a position within a

regulated industry or business for 1 year after service on the Authority; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Transportation Services Authority regulates fully regulated carriers, operators of tow cars and brokers of regulated services as provided for in chapter 706 of NRS. (NRS 706.151) Sections 11-13 and 16 of this bill change the name of the Transportation Services Authority to the Nevada Transportation Authority.

Section 5 of this bill requires employees of the Authority to carry proper identification and wear clothing specified by the Deputy Commissioner of the Authority. Section 6 of this bill requires the Authority to adopt regulations specifying the training which its compliance enforcement officers must receive. ~~[Section 7 of this bill requires an investigation and hearing when a written complaint is received against an employee of the Authority and provides for an appeal process for the complainant and employee. The appeal process includes a second investigation, which must be conducted by the Investigation Division of the Department of Public Safety.]~~

Existing law allows the Authority to appoint a Deputy and employ other persons as needed. (NRS 706.176) Section 15 of this bill requires the Authority to appoint a Deputy Commissioner and sets forth the qualifications and duties for the position. Section 15 also requires the Authority to employ compliance enforcement officers and sets forth the duties for those positions.

Existing law prohibits certain persons who have worked for certain agencies of the State from being employed in certain fields or businesses for 1 year after they cease working for the State. (NRS 281.236) Section 17 of this bill expands that prohibition to members of the Authority.

Existing law provides that an employee designated as an inspector or as Manager of Transportation by the Authority is a peace officer and has police powers. (NRS 289.320) Section 18 of this bill amends this provision to apply only to inspectors.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *"Chairman" means the person designated as Chairman of the Authority by the Governor pursuant to NRS 706.1512.*

Sec. 3. *"Compliance enforcement officer" means a person employed pursuant to NRS 706.176 whose duties include enforcing certain state statutes and regulations pertaining to motor carriers.*

Sec. 4. *"Deputy Commissioner" means the person appointed as Deputy Commissioner of the Authority pursuant to NRS 706.176.*

Sec. 5. *An employee of the Authority who enforces any provision of this chapter or regulations adopted pursuant thereto while on duty shall carry on his person proper identification and wear clothing that identifies him as an employee of the Authority as determined by the Deputy Commissioner.*

Sec. 6. *The Authority shall adopt regulations setting forth the training which a compliance enforcement officer employed by the Authority pursuant to NRS 706.176 must complete, including, without limitation, training in commercial vehicle safety inspections provided by the Nevada Highway Patrol.*

Sec. 7. ~~*[1. Upon receipt of a written complaint against an employee of the Authority acting in the course of his employment, the Deputy Commissioner shall conduct an investigation. The complainant and the employee against whom the complaint was made must be notified of the pending investigation. Upon completion of the investigation, the Deputy Commissioner shall submit to the Chairman a written report of his findings, including a written recommendation to the Chairman concerning the disposition of the complaint.*~~

~~*2. The Chairman shall review the report and, after consulting with the other members of the Authority, decide if any action should be taken or if the complaint should be dismissed. If the Chairman determines that:*~~

~~*(a) The complaint should be dismissed, the Deputy Commissioner shall notify, by certified mail, the complainant and the employee against whom the complaint was made and provide the complainant with an opportunity to respond; or*~~

~~*(b) Action should be taken against the employee, the Deputy Commissioner shall:*~~

~~*(1) Notify, by certified mail, the complainant and the employee against whom the complaint was made;*~~

~~*(2) Send a copy of the complaint to the employee; and*~~

~~*(3) Provide the employee with an opportunity to respond.*~~

~~*3. The employee or complainant must file a response to the determination of the Chairman within 30 days after the date on which the notice was mailed. Within 20 days after receiving the response of the complainant or the employee against whom the complaint was made, the Deputy Commissioner shall schedule the matter for hearing before the Chairman and other members of the Authority and give notice to the complainant and employee of the date, time and place of the hearing.*~~

~~*4. Within 10 days after the date of the hearing, the Chairman shall issue a written order regarding his decision made in consultation with the other members of the Authority before whom the hearing was held as to the disposition of the complaint. A copy of the written order must be delivered to the complainant and the employee. Within 10 days after receiving a copy of the order, the complainant or the employee may appeal the decision to the Authority.*~~

~~*5. Upon receipt of a notice of appeal, the Deputy Commissioner shall forward the complaint to the Investigation Division of the Department of Public Safety. The Investigation Division shall conduct a second investigation. Upon completion of the investigation, the Investigation Division shall submit to the Chairman a written report of its findings,*~~

~~*including a written recommendation to the Chairman concerning the disposition of the complaint.*~~

~~*6. The Chairman shall review the report and, after consulting with the other members of the Authority, issue an order affirming, modifying or reversing the initial order.*~~

~~*7. The complainant and employee must be notified in writing, by certified mail, of the final decision within 10 days after the order is issued.*~~

~~*8. The Authority shall adopt regulations to carry out the provisions of this section.]*~~ *(Deleted by amendment.)*

Sec. 8. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, *and sections 2 to 7, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, *and sections 2, 3 and 4 of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 706.018 is hereby amended to read as follows:

706.018 "Authority" means the *Nevada* Transportation ~~[Services]~~ Authority created pursuant to NRS 706.1511.

Sec. 10. NRS 706.151 is hereby amended to read as follows:

706.151 1. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, *and sections 2 to 7, inclusive, of this act,* to confer upon the Authority the power and to make it the duty of the Authority to regulate fully regulated carriers, operators of tow cars and brokers of regulated services to the extent provided in this chapter and to confer upon the Department of Motor Vehicles the power to license all motor carriers and to make it the duty of the Department of Motor Vehicles and the Department of Public Safety to enforce the provisions of this chapter and the regulations adopted by the Authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation, to promote safe, adequate, economical and efficient service and to foster sound economic conditions in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for:

(1) Intrastate transportation by fully regulated carriers; and

(2) Towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle,

➥ without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this State.

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 11. NRS 706.1511 is hereby amended to read as follows:

706.1511 1. The *Nevada* Transportation ~~[Services]~~ Authority is hereby created.

2. The Authority consists of three members appointed by the Governor. After the initial term each member shall serve a term of 4 years.

3. The Governor shall appoint to the Authority members who have at least 2 years of experience in one or more of the following fields:

(a) Accounting.

(b) Business administration.

(c) Economics.

(d) Administrative law.

(e) Transportation.

(f) Professional engineering.

➥ At least one but not more than two of the members appointed must be residents of Clark County.

4. Not more than two of the members may be:

(a) Members of the same political party.

(b) From the same field of experience.

5. All of the members must be persons who are independent of the industries regulated by the Authority. No elected officer of this State or any political subdivision is eligible for appointment.

6. The members of the Authority shall give their entire time to the business of the Authority and shall not pursue any other business or vocation or hold any other office of profit.

7. Each member of the Authority serves at the pleasure of the Governor.

Sec. 12. NRS 706.1513 is hereby amended to read as follows:

706.1513 The Authority may sue and be sued in the name of the *Nevada* Transportation ~~[Services]~~ Authority.

Sec. 13. NRS 706.1516 is hereby amended to read as follows:

706.1516 1. The *Nevada* Transportation ~~[Services]~~ Authority Regulatory Fund is hereby created as a special revenue fund. All money collected by the Authority pursuant to law must be deposited in the State Treasury for credit to the Fund.

2. Money in the Fund may be used only to defray the costs of:

(a) Maintaining staff and equipment needed to regulate adequately persons subject to the jurisdiction of the Authority.

(b) Participating in all proceedings relevant to the jurisdiction of the Authority.

(c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that maintenance and participation.

(d) The salaries, travel expenses and subsistence allowances of the members of the Authority.

3. All claims against the Fund must be paid as other claims against the State are paid.

4. The Authority must furnish upon request a statement showing the balance remaining in the Fund as of the close of the preceding fiscal year.

Sec. 14. NRS 706.1715 is hereby amended to read as follows:

706.1715 1. The Attorney General shall:

(a) Act as counsel and attorney for the Authority in all actions, proceedings and hearings.

(b) Prosecute in the name of the *Nevada* Transportation ~~[Services]~~ Authority all civil actions for the enforcement of this chapter and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Authority in the performance of its duties and the enforcement of this chapter.

2. The Attorney General or any district attorney may prosecute any violation of this chapter or chapter 712 of NRS for which a criminal penalty is provided.

Sec. 15. NRS 706.176 is hereby amended to read as follows:

706.176 *1.* The Authority ~~[may:~~

~~1. Appoint a Deputy who serves in the unclassified service of the State.~~

~~2. Employ]~~ *shall appoint a Deputy Commissioner who:*

(a) Must be knowledgeable and experienced in public administration and fiscal management;

(b) Must be knowledgeable in the areas of motor carrier regulation by the Authority; and

(c) Must be independent of and have no pecuniary interest in any entity regulated by the Authority.

2. The Deputy Commissioner shall:

(a) Serve as Chief Financial Officer for the Authority and is responsible for directing the daily operation of the Authority, including, without limitation:

(1) Budget preparation;

(2) Administration;

(3) Human resources;

(4) Purchases and acquisitions made by the Authority; and

(5) Contracts and leases entered into by the Authority;

(b) Develop and implement policies and procedures to ensure the efficient operation of the Authority;

(c) Oversee:

(1) The review of applications for ~~[employment;~~

~~*(2) Docketing procedures;]*~~ *certificates, permits and modifications of tariffs;*

(2) The maintenance of a hearing calendar of all matters pending before the Authority; and

(3) Compliance with and enforcement of State statutes and regulations pertaining to motor carriers which are regulated by the Authority; and

(d) Authenticate documents and serve as custodian of all agency records.

3. The Deputy Commissioner is in the unclassified service of the State.

4. The Authority shall employ compliance enforcement officers whose duties shall include, without limitation, enforcement activities to ensure motor carriers are operating in compliance with State statutes and regulations, conducting operational inspections of motor carriers and investigating complaints against motor carriers.

5. The Authority may employ ~~*[any other]*~~ such other personnel as may be necessary.

Sec. 16. NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

(a) Consumer Affairs Division.

(b) Division of Financial Institutions.

(c) Housing Division.

(d) Manufactured Housing Division.

(e) Real Estate Division.

(f) Division of Insurance.

(g) Division of Industrial Relations.

(h) Office of Labor Commissioner.

(i) Taxicab Authority.

(j) Nevada Athletic Commission.

(k) Office of the Nevada Attorney for Injured Workers.

(l) *Nevada* Transportation ~~[Services]~~ Authority.

(m) Division of Mortgage Lending.

(n) Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 17. NRS 281.236 is hereby amended to read as follows:

281.236 1. A public utility or parent organization or subsidiary of a public utility shall not employ a former member of the Public Utilities Commission of Nevada for 1 year after the termination of his service on the Commission.

2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS shall not employ a former member of the

State Gaming Control Board or the Nevada Gaming Commission for 1 year after the termination of the member's service on the Board or Commission.

3. *A business or industry governed by chapter 706 or 712 of NRS or regulations adopted pursuant thereto shall not employ a former member of the Nevada Transportation Authority, appointed pursuant to NRS 706.1511, for 1 year after the termination of the member's service on the Authority.*

4. In addition to the prohibitions set forth in subsections 1 and 2, a business or industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of government shall not, except as otherwise provided in subsection ~~[4,]~~ *5,* employ a former public officer or employee of the agency, except a clerical employee, for 1 year after the termination of his service or period of employment if:

(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or

(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.

~~[4.]~~ *5.* A public officer or employee may request the Commission on Ethics to apply the relevant facts in his case to the provisions of subsection ~~[3]~~ *4* and determine whether relief from the strict application of the provisions is proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection ~~[3]~~ *4* is not contrary to:

(a) The best interests of the public;

(b) The continued integrity of State Government; and

(c) The code of ethical standards prescribed in NRS 281.481,

➥ it may issue an opinion to that effect and grant such relief. The opinion of the Commission on Ethics in such a case is subject to judicial review.

~~[5.]~~ *6.* As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.

Sec. 18. NRS 289.320 is hereby amended to read as follows:

289.320 An employee of the *Nevada* Transportation ~~[Services]~~ Authority whom it designates as an inspector ~~[or as Manager of Transportation]~~ is a peace officer and has police power for the enforcement of the provisions of:

1. Chapters 706 and 712 of NRS and all regulations of the *Nevada* Transportation ~~[Services]~~ Authority or the Department of Motor Vehicles pertaining thereto; and

2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620, inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

Sec. 19. On October 1, 2007, the State Controller shall transfer all assets and liabilities from the Transportation Services Authority Regulatory Fund to

the Nevada Transportation Authority Regulatory Fund created pursuant to section 11 of this act.

Sec. 20. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 21. This act becomes effective upon passage and approval for the purpose of adopting regulations and conducting any preliminary activities necessary to ensure that the provisions of this act are carried out in an orderly fashion and on October 1, 2007, for all other purposes.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 422.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 939.

"SUMMARY—Requires the creation of a registry and inventory of greenhouse gases emitted in this State. (BDR 40-678)"

"AN ACT relating to pollution; requiring the State Environmental Commission to establish a registry of greenhouse gases emitted by affected units in this State; requiring the State Department of Conservation and Natural Resources to issue a statewide inventory of greenhouse gas emissions; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Environmental Commission may adopt certain regulations to prevent, abate and control air pollution and establish standards for air quality. (NRS 445B.210) Also under existing law, a district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more (currently Clark and Washoe Counties) must establish a program for the control of air pollution and administer that program. In any other county, or in any city, a similar program may be established through cooperative or interlocal agreement or the county or city may establish its own program for the control of air pollution. (NRS 445B.500)

Section 5 of this bill requires the Commission to establish, by regulation, a statewide registry of greenhouse gases emitted by certain generators of electricity in this State. Section 4 of this bill defines a "greenhouse gas" to mean carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons and sulphur hexafluoride. Section 5 requires the Commission to prescribe the requirements and procedures for reporting the emissions of greenhouse gases that must be included in the registry, methods for identifying and measuring the greenhouse gases that must be reported and methods for independently verifying the information that is reported. The Commission is required to establish the reporting period, but the period must not be longer than 1 year. Finally, section 5 authorizes the Commission to establish procedures for the voluntary reporting of emissions of greenhouse gases from sources that are not otherwise required to report.

Section 6.5 of this bill requires the State Department of Conservation and Natural Resources to issue, at least every 4 years, a statewide inventory of greenhouse gas emissions in this State. The inventory must include the sources, types and amounts of the greenhouse gases, together with the Department's evaluation of the emissions, and must be supported with documentation.

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

Section 1. Chapter 445B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6.5, inclusive, of this act.

Sec. 2. *"Affected unit" means a facility for the generation of electricity that:*

1. Has a maximum design capacity of at least 5 megawatts;

2. Emits a greenhouse gas; and

3. Generates electricity for sale.

Sec. 3. (Deleted by amendment.)

Sec. 4. *"Greenhouse gas" means:*

1. Carbon dioxide;

2. Hydrofluorocarbons;

3. Methane;

4. Nitrous oxide;

5. Perfluorocarbons; and

6. Sulphur hexafluoride.

Sec. 5. *1. In addition to any regulation adopted pursuant to NRS 445B.210 to prevent, abate and control air pollution, the Commission shall, by regulation, establish a statewide registry of greenhouse gases emitted by affected units in this State during the reporting period established by the Commission.*

2. The regulations must include, without limitation, provisions setting forth:

(a) The requirements and procedures for reporting emissions of greenhouse gases;

(b) Methods for identifying, measuring and otherwise determining the greenhouse gases that must be reported for inclusion in the registry;

(c) Methods for independently verifying the information reported for inclusion in the registry; and

(d) The reporting period, except that the period must not be longer than 1 year.

3. The Commission may establish procedures for the inclusion in the registry of greenhouse gases emitted from a source other than an affected unit.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. *1. The Department shall, not later than December 31, 2008, and at least every 4 years thereafter, issue a statewide inventory of greenhouse gas emissions.*

2. The inventory must include, without limitation:

(a) The sources, types and amounts of the greenhouse gases emitted in this State;

(b) The Department's evaluation of the emissions; and

(c) Documentation for the information set forth in paragraphs (a) and (b).

Sec. 7. NRS 445B.105 is hereby amended to read as follows:

445B.105 As used in NRS 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 445B.110 to 445B.155, inclusive, *and sections 2 and 4 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 445B.210 is hereby amended to read as follows:

445B.210 The Commission may:

1. Subject to the provisions of NRS 445B.215, adopt regulations consistent with the general intent and purposes of NRS 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act* to prevent, abate and control air pollution.

2. Establish standards for air quality.

3. Require access to records relating to emissions which cause or contribute to air pollution.

4. Cooperate with other governmental agencies, including other states and the Federal Government.

5. Establish such requirements for the control of emissions as may be necessary to prevent, abate or control air pollution.

6. By regulation:

(a) Designate as a hazardous air pollutant any substance which, on or after October 1, 1993, is on the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b); and

(b) Delete from designation as a hazardous air pollutant any substance which, after October 1, 1993, is deleted from the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b),

➥ based upon the Commission's determination of the extent to which such a substance presents a risk to the public health.

7. Hold hearings to carry out the provisions of NRS 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* except as otherwise provided in those sections.

8. Establish fuel standards for both stationary and mobile sources of air contaminants. Fuel standards for mobile sources of air contaminants must be established to achieve air quality standards that protect the health of the residents of the State of Nevada.

9. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.

Sec. 9. NRS 445B.220 is hereby amended to read as follows:

445B.220 In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* the Commission, in addition to any other action which may be necessary or appropriate to carry out ~~[such]~~ *those* purposes, may:

1. Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.

2. Recommend measures for control of air pollution originating in this State.

Sec. 10. NRS 445B.230 is hereby amended to read as follows:

445B.230 The Department shall:

1. Make such determinations and issue such orders as may be necessary to implement the purposes of NRS 445B.100 to 445B.640, inclusive ~~[.]~~ *, and sections 2 to 6.5, inclusive, of this act.*

2. Apply for and receive grants or other funds or gifts from public or private agencies.

3. Cooperate and contract with other governmental agencies, including other states and the Federal Government.

4. Conduct investigations, research and technical studies consistent with the general purposes of NRS 445B.100 to 445B.640, inclusive ~~[.]~~ *, and sections 2 to 6.5, inclusive, of this act.*

5. Prohibit as specifically provided in NRS 445B.300 and 445B.320 and as generally provided in NRS 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act* the installation, alteration or establishment of any equipment, device or other article capable of causing air pollution.

6. Require the submission of such preliminary plans and specifications and other information as it deems necessary to process permits.

7. Enter into and inspect at any reasonable time any premises containing an air contaminant source or a source under construction for purposes of

ascertaining compliance with NRS 445B.100 to 445B.640, inclusive ~~[.]~~ *, and sections 2 to 6.5, inclusive, of this act.*

8. Specify the manner in which incinerators may be constructed and operated.

9. Institute proceedings to prevent continued violation of any order issued by the Director and to enforce the provisions of NRS 445B.100 to 445B.640, inclusive ~~[.]~~ *, and sections 2 to 6.5, inclusive, of this act.*

10. Require access to records relating to emissions which cause or contribute to air pollution.

11. Take such action in accordance with the rules, regulations and orders promulgated by the Commission as may be necessary to prevent, abate and control air pollution.

Sec. 11. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310:

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 400,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and *sections 2 to 6.5, inclusive, of this act, and* the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative

details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act* or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of $17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive ~~[.]~~ *, and sections 2 to 6.5, inclusive, of this act.* The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. For the purposes of this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 445B.540 is hereby amended to read as follows:

445B.540 1. A county or area whose local jurisdiction over air pollution control has been superseded may establish or restore a local air pollution control program if such program is approved as adequate by the Commission.

2. A district, county or city which has an air pollution control program in operation on July 1, 1971, may continue its program if within 1 year after July 1, 1971, the program is approved as adequate by the Commission. Such approval shall be deemed granted unless the Commission specifically disapproves the program after a public hearing. Nothing in NRS 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act* is to be

construed as invalidating any rule, regulation, enforcement action, variance, permit, cease and desist order, compliance schedule, or any other legal action taken by any existing air pollution control authority pursuant to former NRS 445.400 to 445.595, inclusive, on or before July 1, 1971, unless it is specifically repealed, superseded or disapproved, pursuant to NRS 445B.215.

Sec. 14. NRS 445B.590 is hereby amended to read as follows:

445B.590 1. The Account for the Management of Air Quality is hereby created in the State General Fund, to be administered by the Department.

2. Money in the Account for the Management of Air Quality must be expended only:

(a) To carry out and enforce the provisions of NRS 445B.100 to 445B.640, inclusive, and *sections 2 to 6.5, inclusive, of this act and* of any regulations adopted pursuant to those sections, including, without limitation, the direct and indirect costs of:

(1) Preparing regulations and recommendations for legislation regarding those provisions;

(2) Furnishing guidance for compliance with those provisions;

(3) Reviewing and acting upon applications for operating permits;

(4) Administering and enforcing the terms and conditions of operating permits;

(5) Monitoring emissions and the quality of the ambient air;

(6) Preparing inventories and tracking emissions;

(7) Performing modeling, analyses and demonstrations; and

(8) Establishing and administering a program for the provision of assistance, pursuant to 42 U.S.C. § 7661f, to small businesses operating stationary sources; and

(b) In any other manner required as a condition to the receipt of federal money for the purposes of NRS 445B.100 to 445B.640, inclusive ~~[.]~~ *, and sections 2 to 6.5, inclusive, of this act.*

3. All interest earned on the money in the Account for the Management of Air Quality must be credited to the Account. Claims against the Account for the Management of Air Quality must be paid as other claims against the State are paid.

Sec. 15. NRS 445B.600 is hereby amended to read as follows:

445B.600 NRS 445B.100 to 445B.595, inclusive, *and sections 2 to 6.5, inclusive, of this act* does not abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor in the courts of this State or the courts of the United States on a tort claim against the United States or a federal agency as authorized by federal statutes.

Sec. 16. NRS 445B.610 is hereby amended to read as follows:

445B.610 1. All rules, regulations and standards promulgated by the State Commission of Environmental Protection pertaining to air pollution control in force on July 1, 1973, ~~[shall]~~ remain in effect until such time as

revised by the State Environmental Commission pursuant to NRS 445B.100 to 445B.640, inclusive ~~[.]~~ *, and sections 2 to 6.5, inclusive, of this act.*

2. Any and all action taken by the State Commission of Environmental Protection, including but not limited to existing orders, notices of violation, variances, permits, cease and desist orders and compliance schedules, shall remain in full force and effect and binding upon the State Environmental Commission, the Director, the Department and all persons to whom such action may apply on or after July 1, 1973.

3. In the event that a local air pollution control program described in NRS 445B.500 is transferred in whole or in part from an existing air pollution control agency to another agency, all rules and regulations adopted by the existing agency may be readopted as amended to reflect the transfer of authorities by the new agency immediately upon such transfer, and the provisions of NRS 445B.215 ~~[shall]~~ *do* not apply to such readoption.

4. If a transfer of local authority as described in subsection 3 occurs, all orders, notices of violation, variances, cease and desist orders, compliance schedules and other legal action taken by the existing air pollution control board, control officer ~~[,]~~ or hearing board ~~[shall]~~ remain in full force and effect, and ~~[shall]~~ *must* not be invalidated by reason of such transfer.

Sec. 17. NRS 445B.640 is hereby amended to read as follows:

445B.640 1. Except as otherwise provided in subsection 4 and NRS 445C.010 to 445C.120, inclusive, any person who violates any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* or any regulation in force pursuant thereto, other than NRS 445B.570 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than $10,000 per day per offense. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines not exceeding $500 for lesser violations of any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* or any regulation in force pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* regulations in force pursuant thereto, and orders made pursuant to NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act* by injunction or other appropriate remedy, and the Commission or the Director may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

4. Any person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The

provisions of this subsection do not apply to persons found by the court to be indigent.

5. All administrative fines collected by the Commission pursuant to this section must be deposited in the county school district fund of the county where the violation occurred.

Sec. 18. NRS 445C.030 is hereby amended to read as follows:

445C.030 "Environmental requirement" means a requirement contained in NRS 444.440 to 444.645, inclusive, 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* 459.400 to 459.600, inclusive, 459.700 to 459.856, inclusive, or 519A.010 to 519A.280, inclusive, or in a regulation adopted pursuant to any of those ~~[statutes.]~~ *sections.*

Sec. 19. NRS 459.460 is hereby amended to read as follows:

459.460 1. NRS 459.400 to 459.600, inclusive, do not apply to any activity or substance which is subject to control pursuant to NRS 445A.300 to 445A.955, inclusive, and 459.010 to 459.290, inclusive, except to the extent that they can be applied in a manner which is not inconsistent with those sections.

2. The Director shall administer NRS 459.400 to 459.600, inclusive, in a manner which avoids duplication of the provisions of NRS 445A.300 to 445A.955, inclusive, and 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* and the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.

Sec. 20. NRS 459.930 is hereby amended to read as follows:

459.930 1. Notwithstanding any other provision of law to the contrary and regardless of whether he is a participant in a program, a person who:

(a) Is a bona fide prospective purchaser is not liable for any response action or cleanup that may be required with respect to any real property pursuant to NRS 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* 459.400 to 459.600, inclusive, or any other applicable provision of law.

(b) Is an innocent purchaser is not liable for any response action or cleanup that may be required with respect to any real property pursuant to NRS 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, *and sections 2 to 6.5, inclusive, of this act,* 459.400 to 459.600, inclusive, or any other applicable provision of law.

(c) Owns real property that:

(1) Is contiguous to or otherwise similarly situated with respect to; and

(2) Is or may be contaminated by a release or threatened release of a hazardous substance from,

➥ other real property that the person does not own, is not liable for any response action or cleanup that may be required with respect to the release or threatened release, provided that the person meets the requirements set forth in section 107(q)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(q)(1).

2. A person described in paragraph (a), (b) or (c) of subsection 1 shall report to the Division, in a manner prescribed by the Commission:

(a) Any of the following substances that are found on or at real property owned by the person:

(1) Hazardous substances at or above the required reporting levels designated pursuant to sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9602 and 9603; and

(2) Petroleum products of such type and in such amount as are required by the Division to be reported; and

(b) Any response action or cleanup that has been performed with respect to the real property described in paragraph (a).

3. The provisions of this section do not otherwise limit the authority of the Administrator, the Commission or the Division to require any person who is responsible for the contamination or pollution of real property, by improperly managing hazardous substances at or on that real property, to perform a response action or cleanup with respect to that real property.

4. If there are costs relating to a response action or cleanup that are incurred and unrecovered by the State of Nevada with respect to real property for which a bona fide prospective purchaser of the real property is not liable pursuant to the provisions of this section, the State of Nevada:

(a) Has a lien against that real property in an amount not to exceed the increase in the fair market value of the real property that is attributable to the response action or cleanup, which increase in fair market value must be measured at the time of the sale or other disposition of the real property; or

(b) May, with respect to those incurred and unrecovered costs and by agreement with the bona fide prospective purchaser of the real property, obtain from that bona fide prospective purchaser:

(1) A lien on any other real property owned by the bona fide prospective purchaser; or

(2) Another form of assurance or payment that is satisfactory to the Administrator.

5. The provisions of this section:

(a) Do not affect the liability in tort of any party; and

(b) Apply only to real property that is acquired on or after the date that is 60 days after May 26, 2003.

6. As used in this section:

(a) "Administrator" means the Administrator of the Division.

(b) "Bona fide prospective purchaser" has the meaning ascribed to it in section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(40).

(c) "Commission" means the State Environmental Commission.

(d) "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(e) "Hazardous substance" has the meaning ascribed to it in NRS 459.620.

(f) "Innocent purchaser" means a person who qualifies for the exemption from liability set forth in section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(b)(3).

(g) "Participant" has the meaning ascribed to it in NRS 459.622.

(h) "Program" means a program of voluntary cleanup and relief from liability set forth in NRS 459.610 to 459.658, inclusive.

(i) "Response action" means any action to mitigate, attempt to mitigate or assist in the mitigation of the effects of a leak or spill of or an accident involving a hazardous substance, including, without limitation, any action to:

(1) Contain and dispose of the hazardous substance;

(2) Clean and decontaminate the area affected by the leak, spill or accident; or

(3) Investigate the occurrence of the leak, spill or accident.

Sec. 21. *This act becomes effective on July 1, 2007.*

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 352.

Bill read third time.

The following amendment was proposed by Senator Carlton:

Amendment No. 947.

"SUMMARY— ~~[Prohibits]~~ *Revises provisions governing* the issuance of certain work cards ~~[to persons who have been convicted of certain crimes.]~~ *for employment at certain kinds of dwelling units.* (BDR 10-708)"

"AN ACT relating to work cards; *making the issuance of a temporary work card for employment at certain kinds of dwelling units discretionary rather than mandatory;* prohibiting the issuance of work cards for *such* employment ~~[at certain kinds of dwelling units]~~ to persons who have been convicted of certain crimes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a landlord of dwelling units intended and operated exclusively for persons 55 years of age and older is prohibited from employing persons to perform certain work on the premises unless the person has obtained a work card from the county sheriff. (NRS 118A.335) This bill *: (1) makes the issuance of a temporary work card to an applicant who is being investigated discretionary rather than mandatory; and (2)* prohibits the sheriff from issuing ~~[such]~~ a work card to a person who has been convicted of certain crimes, including a category A, B or C felony or a similar crime in another state, a sexual offense, certain crimes against the elderly or other vulnerable persons, certain batteries, certain thefts or certain violations of state or federal drug laws. This bill further provides that a person who is

denied a work card who believes the information provided to the sheriff by the Central Repository for Nevada Records of Criminal History is incorrect must be given an opportunity to correct the information.

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

Section 1. NRS 118A.335 is hereby amended to read as follows:

118A.335 1. Except as otherwise provided in subsection ~~[4,]~~ *5,* a landlord of dwelling units intended and operated exclusively for persons 55 years of age and older may not employ any person who will work 36 hours or more per week and who will have access to all dwelling units to perform work on the premises unless the person has obtained a work card issued pursuant to subsection 2 by the sheriff of the county in which the dwelling units are located and renewed that work card as necessary.

2. The sheriff of a county shall issue a work card to each person who is required by this section to obtain a work card and who complies with the requirements established by the sheriff for the issuance of such a card. A work card issued pursuant to this section must be renewed:

(a) Every 5 years; and

(b) Whenever the person changes his employment to perform work for an employer other than the employer for which his current work card was issued.

3. If the sheriff of a county requires an applicant for a work card to be investigated:

(a) The applicant must submit with his application a complete set of his fingerprints and written permission authorizing the sheriff to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(b) The sheriff ~~[may]~~ *shall* submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of the applicant.

(c) The sheriff ~~[shall]~~ *may* issue a temporary work card pending the determination of the criminal history of the applicant by the Federal Bureau of Investigation.

4. *The sheriff shall not issue a work card to any person who:*

(a) Has been convicted of a category A, B or C felony or of a crime in another state which would be a category A, B or C felony if committed in this State;

(b) Has been convicted of a sexual offense;

(c) Has been convicted of a crime against any person who is 60 years of age or older or against a vulnerable person for which an additional term of imprisonment may be imposed pursuant to NRS 193.167 or the laws of any other jurisdiction;

(d) Has been convicted of a battery punishable as a gross misdemeanor; or

(e) Within the immediately preceding 5 years:

(1) Has been convicted of a theft; or

(2) Has been convicted of a violation of any state or federal law regulating the possession, distribution or use of a controlled substance.

5. The following persons are not required to obtain a work card pursuant to this section:

(a) A person who holds a permit to engage in property management pursuant to chapter 645 of NRS.

(b) An independent contractor. As used in this paragraph, "independent contractor" means a person who performs services for a fixed price according to his own methods and without subjection to the supervision or control of the landlord, except as to the results of the work, and not as to the means by which the services are accomplished.

(c) An offender in the course and scope of his employment in a work program directed by the warden, sheriff, administrator or other person responsible for administering a prison, jail or other detention facility.

(d) A person performing work through a court-assigned restitution or community-service program.

6. If the sheriff does not issue a work card to a person because the information received from the Central Repository for Nevada Records of Criminal History indicates that the person has been convicted of a crime listed in subsection 4 and the person believes that the information provided by the Central Repository is incorrect, the person may immediately inform the sheriff. If the sheriff is so informed, he shall give the person at least 30 days in which to correct the information before terminating the temporary work card issued pursuant to subsection 3.

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

(a) "Sexual offense" has the meaning ascribed to it in NRS 179D.410.

(b) "Vulnerable person" has the meaning ascribed to it in NRS 200.5092.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton and Hardy.

Senator Carlton moved that Assembly Bill No. 352 be taken from the General File and placed on the General File on the third agenda.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Assembly Bill No. 296 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senator Washington moved that Assembly Bill No. 331 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senator Washington moved that Assembly Bill No. 446 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senator Washington moved that Assembly Bill No. 483 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senator Raggio moved that the Senate recess until 2:30 p.m.

Motion carried.

Senate in recess at 2:03 p.m.

SENATE IN SESSION

At 2:43 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 567, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was rereferred Senate Bill No. 158, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was rereferred Senate Bill No. 499, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 50, 92, 383, 521, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 80, 142, 517, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA K. CEGAVSKE, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 253.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 921.

"SUMMARY—Makes appropriations to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for computer hardware and software, vehicles, furniture and other equipment. (BDR S-1215)"

"AN ACT making appropriations to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for computer hardware and software, vehicles, furniture and other equipment; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Division of Mental Health and Developmental Services of the Department of Health and Human Services:

1. For administration the sum of ~~[$72,653]~~ *$60,144* to replace computer hardware and software.

2. For the Mental Health Information System the sum of ~~[$195,629]~~ *$146,919* to replace computer hardware and software.

3. For Northern Nevada Adult Mental Health Services the sum of ~~[$634,271]~~ *$554,316* for computer hardware and software, vehicles, equipment and a refrigerator.

4. For the Lake's Crossing Center for the Mentally Disordered Offender the sum of ~~[$153,960]~~ *$138,630* for computer hardware and software, furniture, equipment and a vehicle.

5. For Southern Nevada Adult Mental Health Services the sum of ~~[$507,528]~~ *$431,216* to replace computer hardware and software, vehicles, chairs, washers and dryers and office and other equipment.

6. For Rural Clinics the sum of ~~[$452,848]~~ *$406,673* to replace computer hardware and software and office furniture and equipment.

7. For the Desert Regional Center the sum of ~~[$411,000]~~ *$384,424* for furniture, computer hardware and software, vehicles and other equipment.

8. For the Sierra Regional Center the sum of ~~[$116,594]~~ *$104,024* to replace computer hardware and software, nursing equipment and chairs.

9. For the Rural Regional Center the sum of ~~[$51,914]~~ *$43,152* to replace computer hardware and software, televisions and a conference table.

Sec. 2. Any remaining balance of the appropriations made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriations are made or any entity to which money from the appropriations is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. This act becomes effective upon passage and approval.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 41.

Bill read second time.

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

Amendment No. 735.

"SUMMARY—Makes various changes concerning podiatry. (BDR 54-631)"

"AN ACT relating to podiatry; revising provisions relating to requirements for licenses to practice podiatry; ~~[authorizing the State Board of Podiatry to adopt regulations increasing the maximum application and examination fees for such licenses;]~~ eliminating certain obsolete provisions concerning examinations for licensure; *revising the requirements for reinstatement of a delinquent license;* providing that the insured under certain policies of health insurance is entitled under certain circumstances to reimbursement for the treatment of an illness by a podiatrist licensed by the Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Sections 2 and 5 of this bill revise the examination requirement to obtain a license to practice podiatry to provide that a person must have passed that examination within the 5 years immediately preceding the date of his application for a license to practice podiatry or a temporary license to practice podiatry. Sections 2, 4 and 5 of this bill authorize the State Board of Podiatry to increase the fees required to be paid to apply for a license to practice podiatry or a limited or temporary license to practice podiatry. Sections 1, 3, 6 and 11]~~ *Section 1 of this bill requires an applicant for a license to practice podiatry in this State who has been licensed to practice podiatry in another state to provide information concerning his disciplinary history in that state. Section 1 also authorizes the Board to require such an applicant to pass an examination concerning the laws of this State relating to the practice of podiatry or to satisfy other requirements. Sections 2, 4, 7 and 13* of this bill eliminate certain obsolete provisions concerning examinations for licensure. *Section 8 of this bill revises the requirements to reinstate a license that has been delinquent for more than 1 year.*

Sections ~~[7-10]~~ *9-12* of this bill provide that if a policy of health insurance, policy of group health insurance, contract for hospital or medical services, or evidence of coverage under a health care plan provides coverage for the treatment of an illness which is within the scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed by the Board.

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

Section 1. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the other requirements for licensure set forth in this chapter, an applicant for a license to practice podiatry in this State who has

been licensed to practice podiatry in another state or the District of Columbia must submit:

(a) An affidavit signed by the applicant that:

(1) Identifies each jurisdiction in which he has been licensed to practice; and

(2) States whether a disciplinary proceeding has ever been instituted against him by the licensing board of that jurisdiction and, if so, the status of the proceeding; and

(b) If the applicant is currently licensed to practice podiatry in another state or the District of Columbia, a certificate from the licensing board of that jurisdiction stating that the applicant is in good standing and no disciplinary proceedings are pending against him.

2. The Board may require an applicant who has been licensed to practice podiatry in another state or the District of Columbia to:

(a) Pass an examination prescribed by the Board concerning the provisions of this chapter and any regulations adopted pursuant thereto; or

(b) Submit satisfactory proof that:

(1) He maintained an active practice in another state or the District of Columbia within the 5 years immediately preceding his application;

(2) No disciplinary proceeding has ever been instituted against him by a licensing board in any jurisdiction in which he is licensed to practice podiatry; and

(3) He has participated in a program of continuing education that is equivalent to the program of continuing education that is required pursuant to NRS 635.115 for podiatric physicians licensed in this State.

~~[Section 1.]~~ *Sec. 2.* NRS 635.020 is hereby amended to read as follows:

635.020 1. The State Board of Podiatry, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) Three members who are licensed podiatric physicians in the State of Nevada.

(b) One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(c) One member who is a representative of the general public. This member must not be:

(1) A licensed podiatric physician in the State of Nevada; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed podiatric physician in the State of Nevada.

3. The members of the Board are entitled to receive:

(a) A salary of not more than $80 per day, as fixed by the Board, while engaged in the business of the Board; and

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

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

~~[5. If a member is not licensed under the provisions of this chapter, the member shall not participate in preparing, conducting or grading any examination required by the Board.]~~

~~[Sec. 2.]~~ *Sec. 3.* NRS 635.050 is hereby amended to read as follows:

635.050 1. Any person ~~[desiring]~~ *wishing* to practice podiatry in this State must ~~[furnish]~~ *, before beginning to practice, procure from* the Board ~~[with satisfactory proof that he:]~~ *a license to practice podiatry.*

2. A license to practice podiatry may be issued by the Board to any person who:

(a) Is of good moral character.

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

(c) Has received the degree of D.P.M., Doctor of Podiatric Medicine, from an accredited school of podiatry.

(d) Has completed a residency approved by the Board.

(e) Has passed the examination given by the National Board of Podiatric Medical Examiners . ~~*[within the 5 years immediately preceding the date of his application for a license to practice podiatry.]*~~

(f) Has not committed any act described in subsection 2 of NRS 635.130. For the purposes of this paragraph, an affidavit signed by the applicant stating that he has not committed any act described in subsection 2 of NRS 635.130 constitutes satisfactory proof.

~~[2.]~~ *3.* An applicant ~~[is entitled to be examined by]~~ *for a license to practice podiatry must submit to* the Board or a committee thereof pursuant to such regulations as the Board may adopt ~~[if he:~~

~~(a) Pays]~~ *[:*

~~(a) If the applicant has satisfied the examination requirement set forth in paragraph (e) of subsection 2, the]~~ :

(a) The fee for an application for a license of not more than $600;

(b) ~~[Pays]~~ *~~[$900;~~*

~~(b) If the applicant has not satisfied the examination requirement set forth in paragraph (e) of subsection 2, the fee for]~~ ~~[the]~~ *~~[an application and an~~* ~~examination for a license of not more than]~~ ~~[$200;~~

~~(c) Submits proof]~~ *~~[$1,500;~~*

~~(c)]~~ Proof satisfactory to the Board ~~[as required by subsection 1; and~~

~~(d) Submits all]~~ *that the requirements of subsection 2 have been met; and*

~~[(d)]~~ (c) All other information required *by the Board* to complete an application for a license.

➥ The Board shall, by regulation, establish the ~~[fees]~~ *fee* required to be paid pursuant to this subsection.

~~[3.]~~ *4.* The Board may reject an application if it appears that the applicant's credentials are fraudulent or the applicant has practiced podiatry without a license or committed any act described in subsection 2 of NRS 635.130.

~~[4.]~~ *5.* The Board may require such further documentation or proof of qualification as it may deem proper.

~~[5.]~~ *6.* The provisions of this section do not apply to a person who applies for ~~[a]~~ *:*

(a) A limited license to practice podiatry pursuant to NRS 635.075 ~~[.]~~ *; or*

(b) A ~~[temporary]~~ provisional license to practice podiatry pursuant to NRS 635.082.

~~[Sec. 3.]~~ *Sec. 4.* NRS 635.070 is hereby amended to read as follows:

635.070 Without unnecessary delay , ~~[after the examination,]~~ the Board shall act ~~[on the examination.]~~ *upon an application for a license submitted pursuant to this chapter.* If an applicant is found qualified, he must be issued a license to practice podiatry, or as a podiatry hygienist, as the case may be.

~~[Sec. 4.]~~ *Sec. 5.* NRS 635.075 is hereby amended to read as follows:

635.075 1. The Board shall issue a limited license to practice podiatry pursuant to this section to each applicant who complies with the provisions of this section.

2. An applicant for a limited license to practice podiatry must submit to the Board:

(a) An application on a form provided by the Board;

(b) A fee in the amount of the fee for an application for a license required pursuant to paragraph (a) of subsection ~~[2]~~ *3* of NRS 635.050; and

(c) Satisfactory proof that he:

(1) Is of good moral character;

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

(3) For not less than 25 years:

(I) Was licensed to practice podiatry in one or more states or the District of Columbia and practiced podiatry during the period each such license was in effect; and

(II) Remained licensed in good standing at all times during the period he was licensed to practice podiatry; and

(4) Has not committed any act described in subsection 2 of NRS 635.130. For the purposes of this subparagraph, an affidavit signed by the applicant stating that he has not committed any act described in subsection 2 of NRS 635.130 constitutes satisfactory proof.

3. An applicant for a limited license is not required to be licensed to practice podiatry in another state or the District of Columbia when he submits the application for a limited license to the Board.

4. A person who is issued a limited license pursuant to this section may practice podiatry only under the direct supervision of a podiatric physician who is licensed pursuant to this chapter and who does not hold a limited license issued pursuant to this section.

5. A limited license issued pursuant to this section:

(a) Is effective upon issuance; and

(b) May be renewed in the manner prescribed in NRS 635.110.

6. The Board may:

(a) Place such restrictions and conditions upon a limited license issued pursuant to this section as the Board deems appropriate; and

(b) Adopt regulations to carry out the provisions of this section.

~~[Sec. 5.]~~ *Sec. 6.* NRS 635.082 is hereby amended to read as follows:

635.082 1. A graduate of an accredited school of podiatry may, during his residency, be granted a ~~[temporary]~~ *provisional* license to practice podiatry under the direct supervision of a podiatric physician licensed to practice in this State. A ~~[temporary]~~ *provisional* license must not be effective for more than 1 year and is not renewable.

2. ~~[An applicant for a]~~ *A* ~~[temporary]~~ *provisional* license ~~[must furnish]~~ *to practice podiatry may be issued by* the Board ~~[with satisfactory proof that he:]~~ *to any person who:*

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

(b) Has received the degree of D.P.M. (Doctor of Podiatric Medicine) from an accredited school of podiatry.

(c) Has passed the examination given by the National Board of ~~[Podiatry Examiners.~~

~~3. Upon payment of a fee, not exceeding $600, which]~~ *Podiatric Medical Examiners . ~~[within the 5 years immediately preceding the date of his application for a temporary license to practice podiatry.]~~*

3. An applicant for a ~~[temporary]~~ provisional license to practice podiatry must submit to the Board or a committee thereof pursuant to such regulations as the Board may adopt:

(a) ~~[If the applicant has satisfied the examination requirement set forth in paragraph (c) of subsection 2, the]~~ The fee for an application for a ~~[temporary]~~ provisional license of not more ~~[than $900;~~

~~(b) If the applicant has not satisfied the examination requirement set forth in paragraph (c) of subsection 2, the fee for an application and an examination for a temporary license of not more that $1,500;~~

~~(c)~~ than $600;

(b) Proof satisfactory to the Board that the requirements of subsection 2 have been met; and

~~[(d)]~~ (c) All other information required by the Board to complete an application for a ~~[temporary]~~ provisional license.

4. The ~~[fees]~~ fee required pursuant to subsection 3 must be established by regulation of the Board . ~~[, and the presentation of satisfactory proof as~~

~~required by subsection 2, an applicant is entitled to be examined by the Board or a committee thereof pursuant to such regulations as the Board may adopt.~~

~~4.~~ *5.* The Board may by regulation govern the issuance and conditions of the ~~[temporary]~~ *provisional* license.

~~[Sec. 6.]~~ *Sec. 7.* NRS 635.093 is hereby amended to read as follows:

635.093 ~~[1.]~~ Any person ~~[desiring]~~ *wishing* to be licensed as a podiatry hygienist in this State must ~~[furnish]~~ *:*

1. Furnish the Board with satisfactory proof that he:

(a) Is of good moral character.

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

(c) Has satisfactorily completed a course for podiatry hygienists approved by the Board or has had 6 months or more of training in a podiatric physician's office as approved by the Board.

2. ~~[Upon payment of a fee, not exceeding $100, which must be established by regulation of the Board, presenting satisfactory proof as required by subsection 1 and submitting]~~ *Submit* all information required to complete an application for a license . ~~[, an applicant, not exempted under subsection 3, must be examined by the Board or a committee thereof under such regulations as the Board may adopt.~~

~~3. The Board may, without examination, admit to practice as a podiatry hygienist a person who is employed by a podiatric physician and is:~~

~~(a) A registered nurse; or~~

~~(b) A licensed practical nurse whom the Board or any of its members have interviewed and observed in the use of practical skills.]~~

3. Pay to the Board a fee, not exceeding $100, which must be established by regulation of the Board.

Sec. 8. *NRS 635.110 is hereby amended to read as follows:*

635.110 *Except as otherwise provided in NRS 635.082:*

1. A license issued under the provisions of this chapter expires on October 31 of each year. A license may be renewed before its expiration upon presentation of proof of:

(a) Completion of the hours of continuing education required pursuant to NRS 635.115;

(b) Current certification in the techniques of administering cardiopulmonary resuscitation;

(c) Submission of all information required to complete the renewal; and

(d) Payment of a renewal fee in an amount not to exceed $600 for a podiatric physician and not to exceed $100 for a podiatry hygienist. The Board shall, by regulation, establish the amount of each fee.

2. A license which is not renewed by October 31 of each year is delinquent. A delinquent license may be reinstated, at the discretion of the Board ~~[, upon]~~ *:*

(a) Upon payment of the appropriate annual renewal fee and an additional ~~[annual]~~ fee for delinquency in an amount established by the Board ~~[.]~~ *; and*

(b) If the license is delinquent for more than 1 year, upon the holder of the delinquent license:

(1) Passing an examination prescribed by the Board concerning the provisions of this chapter and any regulations adopted pursuant thereto; or

(2) Submitting satisfactory proof that:

(I) He maintained an active practice in another state or the District of Columbia within the 5 years immediately preceding his application;

(II) No disciplinary proceeding has ever been instituted against him by a licensing board in any jurisdiction in which he is licensed to practice podiatry; and

(III) If he is a podiatric physician, he has participated in a program of continuing education that is equivalent to the program of continuing education required pursuant to NRS 635.115 for podiatric physicians licensed in this State.

~~[Sec. 7.]~~ *Sec. 9.* Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed pursuant to chapter 635 of NRS.

2. The terms of the policy must not limit:

(a) Coverage for treatments by a podiatrist to a number less than for treatments by other physicians.

(b) Reimbursement for treatments by a podiatrist to an amount less than that reimbursed for similar treatments by other physicians.

~~[Sec. 8.]~~ *Sec. 10.* Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. If any group policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed pursuant to chapter 635 of NRS.

2. The terms of the policy must not limit:

(a) Coverage for treatments by a podiatrist to a number less than for treatments by other physicians.

(b) Reimbursement for treatments by a podiatrist to an amount less than that reimbursed for similar treatments by other physicians.

~~[Sec. 9.]~~ *Sec. 11.* Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. If any contract for hospital or medical services provides coverage for treatment of an illness which is within the authorized scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed pursuant to chapter 635 of NRS.

2. The terms of the policy must not limit:

(a) Coverage for treatments by a podiatrist to a number less than for treatments by other physicians.

(b) Reimbursement for treatments by a podiatrist to an amount less than that reimbursed for similar treatments by other physicians.

~~[Sec. 10.]~~ *Sec. 12.* Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed pursuant to chapter 635 of NRS.

2. The terms of the policy must not limit:

(a) Coverage for treatments by a podiatrist to a number less than for treatments by other physicians.

(b) Reimbursement for treatments by a podiatrist to an amount less than that reimbursed for similar treatments by other physicians.

~~[Sec. 11.]~~ *Sec. 13.* NRS 635.060 is hereby repealed.

~~[Sec. 12.]~~ *Sec. 14.* This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTION

635.060 Examination: Time; place; subjects; regulations to establish passing requirements.

1. The Board shall hold at least one examination each year to examine applicants under this chapter. The Board shall establish the time and place for the examination.

2. The Board shall provide such books, blanks and forms as may be necessary to conduct the examination.

3. The examination for licensure under this chapter must be in the English language, written, oral or clinical, as the Board may determine. The examination for podiatric physicians may include the following subjects: Anesthesia and medications, bacteriology, clinical podiatry, dermatology, diagnosis and treatment, laboratory, neurology, orthopedics, pathology, pharmacology, including pharmacodynamics and materia medica, sterilization and sterile technique, surgery, surgical anatomy, X ray, and such other subjects pertaining to the treatment of the foot and leg as the Board may determine.

4. The Board shall establish by regulation the requirements for passing the examination.

Senator Heck moved the adoption of the amendment.

Remarks by Senators Heck and Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 51.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 936.

"SUMMARY—Revises provisions pertaining to the disclosure of certain information regarding ~~[an applicant for a position as a firefighter with a fire-fighting agency.]~~ *applicants for certain positions with public safety agencies.* (BDR 19-247)"

"AN ACT relating to employment; requiring an employer or former employer of a person who is an applicant for a position as a firefighter with a fire-fighting agency to provide certain information regarding the applicant to the fire-fighting agency under certain circumstances; providing immunity from civil liability in certain circumstances for an employer or former employer who provides such information; *revising provisions governing the sharing of information concerning applicants for certain positions with public safety agencies;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a law enforcement agency is authorized to request an employer or former employer of a person who is an applicant for a position as a peace officer with the law enforcement agency to provide certain information regarding the employment history of the applicant to the law enforcement agency under certain circumstances. (NRS 239B.020) An employer is immune from civil liability under certain circumstances for providing such information. (NRS 41.755) This bill expands the authority to request information regarding the employment history of an applicant to fire-fighting agencies ~~[. This bill also]~~ *and* extends immunity from civil liability to employers who disclose such information to fire-fighting agencies under certain circumstances. *This bill also places restrictions on the sharing of information concerning applicants for certain positions with a public safety agency.*

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

Section 1. NRS 239B.020 is hereby amended to read as follows:

239B.020 1. Upon the request of a ~~[law enforcement]~~ *public safety* agency, an employer shall provide to the ~~[law enforcement]~~ *public safety* agency information, if available, regarding a current or former employee of the employer who is an applicant for the position of *firefighter or* peace officer *, as applicable,* with the ~~[law enforcement]~~ *public safety* agency. A request for information by a ~~[law enforcement]~~ *public safety* agency pursuant to this subsection must be:

(a) In writing;

(b) Accompanied by an authorization signed by the applicant and notarized by a notary public or judicial officer in which the applicant consents to the release of the information; and

(c) Presented to the employer by a sworn officer or other authorized representative of the ~~[law enforcement]~~ *public safety* agency.

2. The information that a ~~[law enforcement]~~ *public safety* agency may request pursuant to subsection 1 includes, without limitation:

(a) The date on which the applicant began his employment and, if applicable, the date on which the employment of the applicant was terminated;

(b) A list of the compensation that the employer provided to the applicant during the course of the employment;

(c) An application for a position of employment that the applicant submitted to the employer;

(d) A written evaluation of the performance of the applicant;

(e) A record of the attendance of the applicant;

(f) A record of disciplinary action taken against the applicant;

(g) A statement regarding whether the employer would rehire the applicant and, if the employer would not rehire the applicant, the reasons therefor; and

(h) If applicable, a record setting forth the reason that the employment of the applicant was terminated and whether the termination was voluntary or involuntary.

3. An employer shall not provide information pursuant to subsection 1 if the disclosure of the information is prohibited pursuant to a federal or state statute or regulation.

4. A ~~[law enforcement]~~ *public safety* agency may use the information that it receives pursuant to this section only to determine the suitability of an applicant for employment as a *firefighter or* peace officer ~~[.]~~ *, as applicable.*

5. Except as otherwise provided in this subsection, a ~~[law enforcement]~~ *public safety* agency shall maintain the confidentiality of information that it receives pursuant to this section. A ~~[law enforcement]~~ *public safety* agency may share information regarding an applicant that it receives pursuant to this section with another ~~[law enforcement]~~ *public safety* agency if:

(a) The applicant is also an applicant for a position as a *firefighter or* peace officer *, as applicable,* with the other ~~[law enforcement]~~ *public safety* agency ~~[;]~~ and *the applicant submitted a single application to be used by multiple public safety agencies; and*

(b) The confidentiality of the information is otherwise maintained.

6. As used in this section:

(a) "Employer" includes a public employer and a private employer.

(b) *"Firefighter" means a person who is a salaried employee of a fire-fighting agency and whose principal duties are to control, extinguish, prevent and suppress fires.*

(c) "Fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.

~~*[(d) "Law enforcement agency" has the meaning ascribed to it in NRS 277.035.]*~~

~~[(c)]~~ ~~*[(e)]*~~ *(d)* "Peace officer" has the meaning ascribed to it in NRS 289.010.

~~[(f)]~~ *(e) "Public safety agency" means:*

(1) A fire-fighting agency; or

(2) A law enforcement agency ~~[.]~~ as defined in NRS 277.035.

Sec. 2. NRS 41.755 is hereby amended to read as follows:

41.755 1. Except as otherwise provided in subsection 3, an employer who, at the request of an employee, discloses information regarding:

(a) The ability of the employee to perform his job;

(b) The diligence, skill or reliability with which the employee carried out the duties of his job; or

(c) An illegal or wrongful act committed by the employee,

➥ to a prospective employer of that employee is immune from civil liability for such disclosure and its consequences.

2. Except as otherwise provided in subsection 3, an employer who discloses information regarding an employee to a ~~[law enforcement]~~ *public safety* agency pursuant to NRS 239B.020 is immune from civil liability for such disclosure and its consequences.

3. An employer is not immune from civil liability for a disclosure made pursuant to subsection 1 or NRS 239B.020 or for the consequences of a disclosure made pursuant to subsection 1 or NRS 239B.020 if the employer:

(a) Acted with malice or ill will;

(b) Disclosed information that he believed was inaccurate;

(c) Disclosed information which he had no reasonable grounds for believing was accurate;

(d) Recklessly or intentionally disclosed inaccurate information;

(e) Deliberately disclosed misleading information; or

(f) Disclosed information in violation of a state or federal law or in violation of an agreement with the employee.

4. As used in this section:

(a) "Employee" means a person who currently renders or previously rendered time and services to an employer.

(b) "Employer" includes an employee or agent of an employer who is authorized by the employer to disclose information regarding an employee.

(c) "Public safety agency" has the meaning ascribed to it in NRS 239B.020.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 145.

Bill read second time.

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

Amendment No. 855.

"SUMMARY—Revises provisions governing the assignment of benefits for health insurance. (BDR ~~[57-1068)"]~~ *40-1068)*"

"AN ACT relating to health insurance; revising provisions governing the assignment of benefits; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill prohibits an insurer that is *not licensed in this State and that is* obligated to pay benefits for services provided to a person by a hospital or other provider of health care *or is obligated to reimburse a person for the costs of such services* to make such payments directly to the person if the insurer has notice that the person has assigned the benefits to the hospital or other provider of health care. *This bill does not create grounds for civil or criminal liability.*

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

Section 1. Chapter ~~[679A]~~ *449* of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Notwithstanding any specific statute to the contrary, an]~~ An insurer that is not licensed in this State pursuant to title 57 of NRS and that is obligated to pay benefits for services provided to a person by a hospital or other provider of health care, or to reimburse a person for the costs of such services, shall not make the payment directly to the person if an itemized statement for the services is submitted to the insurer which clearly indicates that the right of the person to those benefits has been assigned to the hospital or other provider of health care.

2. ~~[If an insurer that has notice of such an assignment makes payment directly to the person in violation of subsection 1, the payment:~~

~~(a) Does not release the insurer from liability to pay the hospital or other provider of health care to which the benefits have been assigned; and~~

~~(b) Is not a defense to any action by the hospital or other provider of health care against the insurer to collect the assigned benefits.]~~ The provisions of this section do not create grounds for civil or criminal liability.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 165.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 940.

"SUMMARY—Creates the Justice Assistance Grant Trust Account in the State General Fund. (BDR 43-1083)"

"AN ACT relating to public safety; creating the Justice Assistance Grant Trust Account in the State General Fund; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing federal law establishes the Edward Byrne Memorial Justice Assistance Grant Program. (42 U.S.C. §§ 3750 et seq.) The grant program authorizes the Attorney General of the United States to make grants of money to states to provide additional personnel, equipment, supplies, contractual support, training, technical assistance and information systems for criminal justice. (42 U.S.C. § 3751) The grant program also requires each state to establish a trust fund in which to deposit money received by the state from the grant program. (42 U.S.C. § 3757) This bill, in compliance with federal law, establishes such a trust account for all money received by the State of Nevada from the Grant Program.

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

Section 1. Chapter 480 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Justice Assistance Grant Trust Account is hereby created in the State General Fund. All money received by the State of Nevada pursuant to the Edward Byrne Memorial Justice Assistance Grant Program, 42 U.S.C. §§ 3750 et seq., must be deposited in the Trust Account.

2. The Director shall administer the Trust Account.

3. The money in the Trust Account may only be expended in accordance with the provisions of the Edward Byrne Memorial Justice Assistance Grant Program, 42 U.S.C. §§ 3750 et seq., and any regulations adopted pursuant thereto.

4. The interest and income earned on the money in the Trust Account, after deducting any applicable charges, must be credited to the Trust Account.

Sec. 2. This act becomes effective ~~[on July 1, 2007.]~~ *upon passage and approval and applies retroactively from October 5, 2005.*

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 178.

Bill read second time.

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

Amendment No. 770.

"SUMMARY—Revises provisions relating to net metering and energy. (BDR 58-1054)"

"AN ACT relating to energy; *requiring certain lights sold in this State to meet certain standards of energy efficiency; revising the authority of the Director of the Office of Energy;* revising various provisions relating to net metering; providing for the establishment of the Wind Energy Systems Demonstration Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill prohibits the sale in this State of certain general purpose lights that do not produce a certain amount of lumens per watt of electricity consumed, and requires the Director of the Office of Energy to adopt regulations establishing a minimum standard of energy efficiency for such lights.

Existing law authorizes a customer of an electric utility to use a net metering system on the customer's premises to generate electricity to offset part or all of the customer's requirements for electricity. The net metering system must use renewable energy as its primary source of energy to generate electricity, and the system is allowed to have a generating capacity of not more than 150 kilowatts. (NRS 704.766-704.775)

Section ~~[1]~~ *1.4* of this bill provides that one of the purposes and policies of the Legislature in enacting the net metering statutes is to streamline the process for customers of a utility to apply for and install net metering systems.

Section 1.5 of this bill provides for a general increase in the permissible capacity of net metering systems and allows a customer-generator to use a net metering system of not more than 1 megawatt. However, section 1.5 also places specific limitations on the capacity of net metering systems under certain circumstances.

Section 2 of this bill requires the Public Utilities Commission of Nevada to adopt regulations regarding a net metering tariff and a standard net metering contract. Section 3 of this bill changes the method for calculating the value of the electricity generated by certain net metering systems.

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections 5-29 of this bill enact the Wind Energy Systems Demonstration Program Act, a similar demonstration program for wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

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

Section 1. *Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy efficiency established by the Director pursuant to subsection 3 for lumens per watt of electricity consumed.

3. The Director shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:

(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy efficiency established by the Director must exceed 25 lumens per watt of electricity consumed.

(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.

4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the Director by regulation.

Sec. 1.3. *NRS 701.170 is hereby amended to read as follows:*

701.170 The Director may:

1. Administer any gifts or grants which the Office of Energy is authorized to accept for the purposes of this chapter.

2. Expend money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.

5. Assist developers of renewable energy generation projects in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.

6. Adopt any regulations that the Director determines are necessary to carry out the duties of the Office of Energy pursuant to this chapter.

7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, promote, participate in the

operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Office of Energy. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Office of Energy.

8. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Office of Energy.

~~[Section 1.]~~ *Sec. 1.4.* NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, to:

1. Encourage private investment in renewable energy resources;
2. Stimulate the economic growth of this State; ~~[and]~~
3. Enhance the continued diversification of the energy resources used in this State ~~[.]~~ *; and*
4. *Streamline the process for customers of a utility to apply for and install net metering systems.*

Sec. 1.5. NRS 704.771 is hereby amended to read as follows:

704.771 *1.* "Net metering system" means a facility or energy system for the generation of electricity that:

~~[1.]~~ *(a)* Uses renewable energy as its primary source of energy to generate electricity;

~~[2.]~~ *(b)* Has a generating capacity of not more than ~~[150 kilowatts;~~

~~3.]~~ *1 megawatt;*

(c) Is located on the customer-generator's premises;

~~[4.]~~ *(d)* Operates in parallel with the utility's transmission and distribution facilities; and

~~[5.]~~ *(e)* Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

Sec. 2. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~[30]~~ *100* kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~[30]~~ *100* kilowatts, the utility ~~[may:~~

~~(a) Require]~~ *:*

(a) May require the customer-generator to install at its own cost ~~[an]~~ *:*

(1) An energy meter that is capable of measuring generation output and customer load ~~[.]~~ *; and*

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) ~~[Charge]~~ *Except as otherwise provided in paragraph (c), may charge* the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➥ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 3. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. ~~[If a customer-generator's net metering system has a capacity of not more than 30 kilowatts, the]~~ *The* net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for *the* electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt - hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The *value of the* excess electricity ~~[which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~3. If a customer-generator's net metering system has a capacity of more than 30 kilowatts, the net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall:~~

~~(1) Measure, in kilowatt-hours, the amount of electricity supplied by the utility to the customer-generator during the billing period and calculate its~~

~~value using the tariff that would be applicable if the customer-generator did not use a net metering system; and~~

~~(2) Measure, in kilowatt hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.~~

~~(b) If the value of electricity supplied by the utility exceeds the value of the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net value of the electricity supplied by the utility.~~

~~(c) If the value of the electricity generated by the customer-generator which is fed back to the utility exceeds the value of the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for the value of the electricity provided to the other during the billing period.~~

~~(2) The value of the excess electricity:~~

~~(I) Must not be shown as a credit on the customer-generator's bill for that billing period but must be reflected as a credit that is carried forward to offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt hours. If the credit is reflected as excess electricity and the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer-generator ceases to be a customer of the utility at the premises served by the net metering system or the customer-generator transfers the net metering system to another person.~~

~~(II) Does not reduce any other fee or charge imposed by the utility.~~

~~(3) The excess electricity which is fed back to the utility]~~ *must not be used to reduce any other fee or charge imposed by the utility.*

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than ~~[150 kilowatts,]~~ *1 megawatt*, including, without limitation, a net metering system, as defined in NRS 704.771.

➥ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 5. Sections 5 to 29, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 6. As used in sections 5 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 21, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 7. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 8. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 9. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 22 of this act.

Sec. 10. "Commission" means the Public Utilities Commission of Nevada.

Sec. 11. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 12. "Institution of higher education" means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 13. "Participant" means a person who has been selected by the Committee pursuant to section 26 of this act to participate in the Wind Demonstration Program.

Sec. 14. "Person" includes , *without limitation*, a governmental entity.

Sec. 15. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 16. "Public property" means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to ~~[26 U.S.C. §]~~ *section* 501(c)(3) of the Internal Revenue Code, *26 U.S.C. § 501(c)(3)*, as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 17. "School property" means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 18. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 19. "Utility" means a public utility that supplies electricity in this State.

Sec. 20. "Wind Demonstration Program" or "Program" means the Wind Energy Systems Demonstration Program created by section 22 of this act.

Sec. 21. "Wind energy system" means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 22. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 23 of this act;

(b) Submit an application to a utility and be selected by the Committee for inclusion in the Program pursuant to sections 25 and 26 of this act;

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 23. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including *, without limitation,* a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 24. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 25 of this act.

2. A utility may recover its reasonable and prudent costs, including, without limitation, incentives [,] that are associated with carrying out and

administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 25. 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the Committee the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The Committee shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 26 of this act, the Committee may approve, from among the applications recommended by each utility, wind energy systems totaling:

(a) For the program year beginning July 1, 2008:

(1) 500 kilowatts of capacity for school property;

(2) 500 kilowatts of capacity for other public property;

(3) 700 kilowatts of capacity for private residential property and small business property; and

(4) 700 kilowatts of capacity for agricultural property.

(b) For the program year beginning July 1, 2009:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 26. 1. Based on the applications submitted by each utility for a program year, the Committee shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the Committee selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Committee on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Committee may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 27. 1. Except as otherwise provided in this section, if the Committee determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the Committee shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The Committee may, without notice or an opportunity for a hearing, withdraw from the Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.

(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.

Sec. 28. 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 29. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 29.5. *The Director of the Office of Energy shall adopt the regulations required by section 1 of this act on or before October 1, 2011.*

Sec. 30. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) On October 1, 2007, for all other purposes.

2. Sections 5 to 29, inclusive, of this act expire by limitation on June 30, 2011.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 195.

Bill read second time.

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

Amendment No. 737.

"SUMMARY—Makes various changes relating to residential landlords and tenants. (BDR 10-1127)"

"AN ACT relating to property; revising the provisions relating to the conversion of a common-interest community; *establishing provisions relating to a tenant's remedies under certain circumstances;* requiring a landlord to provide copies of written rental agreements; revising the provisions relating to the required disclosure of the names and addresses of managers and owners; providing that a dwelling unit is not habitable if it violates certain provisions of housing or health codes; revising provisions relating to the enforceability of an adopted rule or regulation governing a rental agreement; making changes to the provisions relating to a tenant's remedies under certain circumstances; making various other changes relating to residential landlords and tenants; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth certain requirements for notification of residential tenants and subtenants relating to the conversion of a common-interest community. (NRS 116.4112) Section 1 of this bill ~~[establishes a rebuttable presumption of an intent by the owner to evade such notice requirements if a declaration of conversion is filed within 6 months after a tenant is evicted. Section 1 also provides that a tenant retains his right to receive an offer to convey the unit and to recover damages if he was unlawfully evicted before the declaration was filed.]~~ *provides that if a majority of residential tenants or subtenants are required to vacate under certain circumstances, a rebuttable presumption is created that the owner intended to offer the vacated premises as units in a common-interest community.*

Existing law sets forth certain requirements relating to a written rental agreement. (NRS 118A.200) Section 2 of this bill requires a landlord to provide to the tenant one free copy of any written agreement entered into by the tenant and landlord. Section 2 also requires a landlord to provide additional copies of any such agreement upon request by the tenant within a reasonable time and for a reasonable fee.

Existing law requires a landlord to disclose the name and address of managers and owners and provides that service of process in any action may be made upon the manager of the property. (118A.260) Section 3 of this bill requires a landlord to provide an address in Nevada for a person authorized to act for and on behalf of the landlord for service of process. Section 3 also allows service of process to be made upon certain persons in addition to the manager. Section 4 of this bill provides that a dwelling unit is not habitable if it violates provisions of housing or health codes concerning the health, safety, sanitation or fitness for habitation of the dwelling unit. (NRS 118A.290)

Existing law provides that rules and regulations adopted after a tenant enters into a rental agreement are enforceable against the tenant under certain circumstances. (NRS 118A.320) Section 5 of this bill provides that the adoption of such rules or regulations does not affect the tenant's obligation to pay rent and other charges or the tenant's right under a rental agreement to keep a pet.

Existing law sets forth various remedies for a tenant when there is a breach of a rental agreement or a failure by the landlord to maintain the dwelling unit in a habitable condition and requires a tenant to give notice of such breach or failure to the landlord before the tenant may recover damages under certain circumstances. (NRS 118A.350, 118A.380) Sections 1.5 and 6 of this bill separate the provisions concerning a breach of a rental agreement from the provisions concerning a landlord's failure to maintain a dwelling unit in a habitable condition and allow a tenant to withhold rent when there is a breach if he gives notice of such breach to the landlord. Sections 1.5 ~~[, 6]~~ and 7 of this bill also allow a tenant to withhold rent without giving such notice if the landlord has received a notice of the condition constituting the

breach or failure from a governmental agency and the landlord fails to remedy or attempt in good faith to remedy the breach or failure within a specified time. ~~[Section 6 further provides that a tenant's failure to give notice of a breach does not affect the tenant's ability to recover damages for a violation of the rental agreement.]~~ *In addition, section 1.5 requires justice courts to establish a mechanism by which tenants may deposit withheld rent into an escrow account. Section 1.5 further provides that a tenant has no defense to an eviction proceeding for withholding rent while awaiting a landlord's remedy or attempted remedy of a failure to maintain the dwelling unit in a habitable condition unless the tenant has deposited the withheld rent into the escrow account.*

Existing law provides that a tenant is guilty of an unlawful detainer if he suffers, permits or maintains on or about the premises any nuisance. (NRS 40.2514) Section 8 of this bill requires that such a nuisance must consist of conduct or an ongoing condition that obstructs the free use of property and causes injury and damage for the nuisance to evidence guilt of an unlawful detainer.

Section 9 of this bill makes a technical correction to an internal reference to a statute.

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

Section 1. NRS 116.4112 is hereby amended to read as follows:

116.4112 1. A declarant of a common-interest community containing converted buildings, and any dealer who intends to offer units in such a common-interest community, shall give each of the residential tenants and any residential subtenant in possession of a portion of a converted building notice of the conversion and provide those persons with the public offering statement no later than 120 days before the tenants and any subtenant in possession are required to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and must be hand-delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure to give notice as required by this section is a defense to an action for possession. *If, during the 6-month period before the recording of a declaration, a majority of the tenants or any subtenants in possession of any portion of the property described in such declaration has been required to vacate for reasons other than nonpayment of rent, waste or conduct that disturbs other tenants' peaceful enjoyment of the premises, a rebuttable presumption is created that the owner of such property intended to offer the vacated premises as units in a common-interest community at all times during that 6-month period.*

2. For 60 days after delivery or mailing of the notice described in subsection 1, the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that 60-day period, the offeror may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any unit in a converted building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

3. If a seller, in violation of subsection 2, conveys a unit to a purchaser for value who has no knowledge of the violation, the recordation of the deed conveying the unit or, in a cooperative, the conveyance of the unit, extinguishes any right a tenant may have under subsection 2 to purchase that unit if the deed states that the seller has complied with subsection 2, but the conveyance does not affect the right of a tenant to recover damages from the seller for a violation of subsection 2.

4. If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with the provisions of NRS 40.251 and 40.280, the notice also constitutes a notice to vacate specified by those sections.

5. This section does not permit termination of a lease by a declarant in violation of its terms.

~~*[6. A purchaser shall not evade the provisions of this section by evicting a tenant other than for cause, including the nonpayment of rent, and subsequently recording a declaration pursuant to NRS 116.2101. A declaration that is filed within 6 months of removing a tenant pursuant to NRS 40.255 creates a rebuttable presumption of an intent to evade the provisions of this section which may only be overcome by clear and convincing evidence that the owner did not intend to convert at the time of the notice. A tenant evicted in violation of this subsection:*~~

~~*(a) Retains the right to receive an offer to convey the unit occupied by the tenant pursuant to subsection 2 for 60 days after the declaration; and*~~

~~*(b) May recover damages pursuant to NRS 116.4117.]*~~

Sec. 1.5. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this chapter, if a landlord fails to maintain a dwelling unit in a habitable condition as required by this chapter, the tenant ~~*[may]*~~ *shall deliver a written notice to the landlord specifying each failure by the landlord to maintain the dwelling unit in a habitable condition and requesting that the landlord remedy the failures. If a failure is remediable and the landlord adequately remedies the failure or uses his best efforts to remedy the failure within 14 days after receipt of the notice, the tenant may not proceed under this section. If the landlord fails to remedy a*

material failure to maintain the dwelling unit in a habitable condition or to make a reasonable effort to do so within the prescribed time, the tenant may:

(a) Terminate the rental agreement immediately.

(b) Recover actual damages.

(c) Apply to the court for such relief as the court deems proper under the circumstances.

(d) Withhold any rent that becomes due without incurring late fees, charges for notice or any other charge or fee authorized by this chapter or the rental agreement until the landlord has remedied, or has attempted in good faith to remedy, the failure.

2. The tenant may not proceed under this section:

(a) For a condition caused by his own deliberate or negligent act or omission or that of a member of his household or other person on the premises with his consent; or

(b) If the landlord's inability <u>*to*</u> *adequately* ~~*[to]*~~ *remedy the failure or use his best efforts to remedy the failure within 14 days is due to the tenant's refusal to allow lawful access to the dwelling unit as required by the rental agreement or this chapter.*

3. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable by the tenant under this chapter.

4. A tenant may not proceed under this section unless he has given notice as required by subsection 1, except that the tenant may, without giving that notice:

(a) Recover damages under paragraph (b) of subsection 1 if the landlord:

(1) Admits to the court that he had knowledge of the condition constituting the failure to maintain the dwelling in a habitable condition; or

(2) Has received written notice of that condition from a governmental agency authorized to inspect for violations of building, housing or health codes.

(b) Withhold rent under paragraph (d) of subsection 1 if the landlord:

(1) Has received written notice of the condition constituting the failure to maintain the dwelling in a habitable condition from a governmental agency authorized to inspect for violations of building, housing or health codes; and

(2) Fails to remedy or attempt in good faith to remedy the failure within the time prescribed in the written notice of that condition from the governmental agency.

<u>*5. Justice courts shall establish by local rule a mechanism by which tenants may deposit rent withheld under paragraph (d) of subsection 1 into an escrow account maintained or approved by the court. A tenant does not have a defense to an eviction under paragraph (d) of subsection 1 unless the tenant has deposited the withheld rent into an escrow account pursuant to this subsection.*</u>

Sec. 2. NRS 118A.200 is hereby amended to read as follows:

118A.200 1. Any written agreement for the use and occupancy of a dwelling unit or premises must be signed by the landlord or his agent and the tenant or his agent.

2. *The landlord shall provide one copy of any written agreement described in subsection 1 to the tenant free of cost at the time the agreement is executed and, upon request of the tenant, provide additional copies of any such agreement to the tenant within a reasonable time. The landlord may charge a reasonable fee for providing the additional copies.*

3. Any written rental agreement must contain, but is not limited to, provisions relating to the following subjects:

(a) Duration of the agreement.

(b) Amount of rent and the manner and time of its payment.

(c) Occupancy by children or pets.

(d) Services included with the dwelling rental.

(e) Fees which are required and the purposes for which they are required.

(f) Deposits which are required and the conditions for their refund.

(g) Charges which may be required for late or partial payment of rent or for return of any dishonored check.

(h) Inspection rights of the landlord.

(i) A listing of persons or numbers of persons who are to occupy the dwelling.

(j) Respective responsibilities of the landlord and the tenant as to the payment of utility charges.

(k) A signed record of the inventory and condition of the premises under the exclusive custody and control of the tenant.

(l) A summary of the provisions of NRS 202.470.

(m) Information regarding the procedure pursuant to which a tenant may report to the appropriate authorities:

(1) A nuisance.

(2) A violation of a building, safety or health code or regulation.

(n) Information regarding the right of the tenant to engage in the display of the flag of the United States, as set forth in NRS 118A.325.

~~[3.]~~ *4.* The absence of a written agreement raises a disputable presumption that:

(a) There are no restrictions on occupancy by children or pets.

(b) Maintenance and waste removal services are provided without charge to the tenant.

(c) No charges for partial or late payments of rent or for dishonored checks are paid by the tenant.

(d) Other than normal wear, the premises will be returned in the same condition as when the tenancy began.

~~[4.]~~ *5.* It is unlawful for a landlord or any person authorized to enter into a rental agreement on his behalf to use any written agreement which does not conform to the provisions of this section, and any provision in an agreement which contravenes the provisions of this section is void.

Sec. 3. NRS 118A.260 is hereby amended to read as follows:

118A.260 1. The landlord, or any person authorized to enter into a rental agreement on his behalf, shall disclose to the tenant in writing at or before the commencement of the tenancy:

(a) The name and address of:

(1) The persons authorized to manage the premises;

(2) A person *within this State* authorized to act for and on behalf of the landlord for the purpose of service of process and receiving notices and demands; and

(3) The principal or corporate owner.

(b) A telephone number at which a responsible person who resides in the county or within 60 miles of where the premises are located may be called in case of emergency.

2. The information required to be furnished by this section must be kept current, and this section is enforceable against any successor landlord or manager of the premises.

3. A party who enters into a rental agreement on behalf of the landlord and fails to comply with this section is an agent of the landlord for purposes of:

(a) Service of process and receiving notices and demands; and

(b) Performing the obligations of the landlord under law and under the rental agreement.

4. In any action against a landlord which involves his rental property, service of process upon the manager of the property *or a person described in paragraph (a) of subsection 1* shall be deemed to be service upon the landlord. The obligations of the landlord devolve upon the persons authorized to enter into a rental agreement on his behalf.

5. This section does not limit or remove the liability of an undisclosed landlord.

Sec. 4. NRS 118A.290 is hereby amended to read as follows:

118A.290 1. The landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition. A dwelling unit is not habitable *if it violates provisions of housing or health codes concerning the health, safety, sanitation or fitness for habitation of the dwelling unit or* if it substantially lacks:

(a) Effective waterproofing and weather protection of the roof and exterior walls, including windows and doors.

(b) Plumbing facilities which conformed to applicable law when installed and which are maintained in good working order.

(c) A water supply approved under applicable law, which is:

(1) Under the control of the tenant or landlord and is capable of producing hot and cold running water;

(2) Furnished to appropriate fixtures; and

(3) Connected to a sewage disposal system approved under applicable law and maintained in good working order to the extent that the system can be controlled by the landlord.

(d) Adequate heating facilities which conformed to applicable law when installed and are maintained in good working order.

(e) Electrical lighting, outlets, wiring and electrical equipment which conformed to applicable law when installed and are maintained in good working order.

(f) An adequate number of appropriate receptacles for garbage and rubbish in clean condition and good repair at the commencement of the tenancy. The landlord shall arrange for the removal of garbage and rubbish from the premises unless the parties by written agreement provide otherwise.

(g) Building, grounds, appurtenances and all other areas under the landlord's control at the time of the commencement of the tenancy in every part clean, sanitary and reasonably free from all accumulations of debris, filth, rubbish, garbage, rodents, insects and vermin.

(h) Floors, walls, ceilings, stairways and railings maintained in good repair.

(i) Ventilating, air-conditioning and other facilities and appliances, including elevators, maintained in good repair if supplied or required to be supplied by the landlord.

2. The landlord and tenant may agree that the tenant is to perform specified repairs, maintenance tasks and minor remodeling only if:

(a) The agreement of the parties is entered into in good faith; and

(b) The agreement does not diminish the obligations of the landlord to other tenants in the premises.

3. An agreement pursuant to subsection 2 is not entered into in good faith if the landlord has a duty under subsection 1 to perform the specified repairs, maintenance tasks or minor remodeling and the tenant enters into the agreement because the landlord or his agent has refused to perform them.

Sec. 5. NRS 118A.320 is hereby amended to read as follows:

118A.320 1. The landlord, from time to time, may adopt rules or regulations concerning the tenant's use and occupancy of the premises. Such a rule or regulation is enforceable against the tenant only if:

(a) Its purpose is to promote the convenience, safety or welfare of the landlord or tenants in the premises, preserve the landlord's property from abusive use or make a fair distribution of services and facilities held out for the tenants generally;

(b) It is reasonably related to the purpose for which it is adopted;

(c) It applies to all tenants in the premises in a fair manner;

(d) It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct fairly to inform the tenant of what must or must not be done to comply;

(e) It is in good faith and not for the purpose of evading an obligation of the landlord; ~~[and]~~

(f) *It does not affect the tenant's obligation to pay rent, utilities or other charges;*

(g) It does not affect, before the end of the duration of the rental agreement, any right the tenant may have under the rental agreement to keep a pet; and

(h) The tenant has notice of the rule or regulation at the time he enters into the rental agreement or after the rule or regulation is adopted by the landlord.

2. A rule or regulation adopted after the tenant enters into the rental agreement which works a material modification of the bargain is enforceable against a tenant:

(a) Who expressly consents to ~~[it]~~ *the rule or regulation* in writing; or

(b) Who has 30 days' advance written notice of ~~[it.]~~ *the rule or regulation.*

Sec. 6. NRS 118A.350 is hereby amended to read as follows:

118A.350 1. Except as otherwise provided in this chapter, if the landlord fails to comply with the rental agreement , ~~[or fails to maintain the dwelling unit in a habitable condition as required by this chapter,]~~ the tenant shall deliver a written notice to the landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate as provided in this section. If the breach is remediable and the landlord adequately remedies the breach or uses his best efforts to remedy the breach within 14 days after receipt of the notice, the rental agreement does not terminate by reason of the breach. If the landlord fails to remedy the breach or make a reasonable effort to do so within the prescribed time, the tenant may:

(a) Terminate the rental agreement immediately.

(b) Recover actual damages.

(c) Apply to the court for such relief as the court deems proper under the circumstances.

~~[~~ ~~*(d) Withhold any rent that becomes due without incurring late fees, charges for notice or any other charge or fee authorized by this chapter or the rental agreement, until the landlord has attempted in good faith to remedy the breach.]*~~

2. The tenant may not terminate *the rental agreement* for a condition caused by his own deliberate or negligent act or omission or that of a member of his household or other person on the premises with his consent.

3. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable by the tenant under this chapter.

4. A tenant may not proceed under this section unless he has given notice as required by subsection 1, except that the tenant may, without giving that notice , recover ~~[:~~

~~*(a) Recover]*~~ damages under paragraph (b) of subsection 1 if the landlord:

(a) ~~*[(1)]*~~ Admits to the court that he had knowledge of the condition constituting the breach; or

(b) ~~[(2)]~~ Has received written notice of that condition from a governmental agency authorized to inspect for violations of building, housing or health codes.

~~[~~ ~~*(b) Withhold rent under paragraph (d) of subsection 1 if the landlord:*~~

~~*(1) Has received written notice of the condition constituting the breach from a governmental agency authorized to inspect for violations of building, housing or health codes; and*~~

~~*(2) Fails to remedy or attempt in good faith to remedy the breach within the time prescribed in the written notice of that condition from the governmental agency.*~~

~~*5. A tenant's failure to give notice as required by subsection 1 does not affect a tenant's ability to recover damages for a violation of the rental agreement.]*~~

Sec. 7. NRS 118A.380 is hereby amended to read as follows:

118A.380 1. If the landlord is required by the rental agreement or this chapter to supply heat, air-conditioning, running water, hot water, electricity, gas, or another essential service and he willfully or negligently fails to do so, causing the premises to become unfit for habitation, the tenant shall give written notice to the landlord specifying the breach. If the landlord does not adequately remedy the breach, or use his best efforts to remedy the breach within 48 hours, except a Saturday, Sunday or legal holiday, after it is received by the landlord, the tenant may, in addition to any other remedy:

(a) Procure reasonable amounts of such essential services during the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) Recover actual damages, including damages based upon the lack of use of the premises or the diminution of the fair rental value of the dwelling unit;

(c) Withhold any rent that becomes due during the landlord's noncompliance without incurring late fees, charges for notice or any other charge or fee authorized by this chapter or the rental agreement, until the landlord has attempted in good faith to restore the essential services; or

(d) Procure other housing which is comparable during the landlord's noncompliance, and the rent for the original premises fully abates during this period. The tenant may recover the actual and reasonable cost of that other housing which is in excess of the amount of rent which is abated.

2. If the tenant proceeds under this section, he may not proceed under NRS 118A.350 and 118A.360 as to that breach.

3. The rights of the tenant under this section do not arise until he has given written notice as required by subsection 1, except that the tenant may, without having given that notice ~~[, recover]~~ *:*

(a) Recover damages as authorized under paragraph (b) of subsection 1 if the landlord:

~~[(a)]~~ *(1)* Admits to the court that he had knowledge of the lack of such essential services; or

~~[(b)]~~ *(2)* Has received written notice of the uninhabitable condition caused by such a lack from a governmental agency authorized to inspect for violations of building, housing or health codes.

(b) Withhold rent under paragraph (c) of subsection 1 if the landlord:

(1) Has received written notice of the condition constituting the breach from a governmental agency authorized to inspect for violations of building, housing or health codes; and

(2) Fails to remedy or attempt in good faith to remedy the breach within the time prescribed in the written notice of that condition from the governmental agency.

4. The rights of the tenant under paragraph (c) of subsection 1 do not arise unless the tenant is current in the payment of rent at the time of giving written notice pursuant to subsection 1.

5. If such a condition was caused by the deliberate or negligent act or omission of the tenant, a member of his household or other person on the premises with his consent, the tenant has no rights under this section.

Sec. 8. NRS 40.2514 is hereby amended to read as follows:

40.2514 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he:

1. Assigns or sublets the leased premises contrary to the covenants of the lease;

2. Commits or permits waste thereon;

3. Sets up or carries on therein or thereon any unlawful business;

4. Suffers, permits or maintains on or about the premises any nuisance ~~[;]~~ *that consists of conduct or an ongoing condition which constitutes an unreasonable obstruction to the free use of property and causes injury and damage to other tenants or occupants of that property or adjacent buildings or structures;* or

5. Violates any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, therein or thereon,

➥ and remains in possession after service upon him of 3 days' notice to quit.

Sec. 9. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253, the notices required by NRS 40.251 to 40.260, inclusive, may be served:

(a) By delivering a copy to the tenant personally, in the presence of a witness;

(b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at his place of residence or place of business; or

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. Service upon a subtenant may be made in the same manner as provided in subsection 1.

3. Before an order to remove a tenant is issued pursuant to subsection ~~[6]~~ *5* of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. Except as otherwise provided in subsection 4, this proof must consist of:

(a) A statement, signed by the tenant and a witness, acknowledging that the tenant received the notice on a specified date;

(b) A certificate of mailing issued by the United States Postal Service; or

(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.

4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or

(b) The endorsement of a sheriff or constable stating the:

(1) Time and date the request for service was made by the landlord or his agent;

(2) Time, date and manner of the service; and

(3) Fees paid for the service.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 249.

Bill read second time.

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

Amendment No. 773.

"SUMMARY—Revises provisions relating to dispensing opticians. (BDR 54-547)"

"AN ACT relating to dispensing opticians; requiring the Board of Dispensing Opticians to adopt minimum standards for eyewear and certain devices dispensed by a dispensing optician; authorizing any member of the Board to issue subpoenas to compel the production of books, papers and documents; revising provisions governing the reinstatement of an expired license or limited license; authorizing the Board to impose an administrative fine against a person who engages in ophthalmic dispensing without a license; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Dispensing Opticians to regulate the practice of ophthalmic dispensing. (Chapter 637 of NRS) Section 1.3 of this bill requires the Board to adopt minimum standards for eyewear and certain

optical and ophthalmic devices dispensed by a dispensing optician. The standards must be consistent with the minimum standards of quality approved by the American National Standards Institute. Section 6 of this bill provides that a dispensing optician may be disciplined by the Board for dispensing, without proper verification, such eyewear or devices that do not meet the minimum standards adopted by the Board. Section 1.7 of this bill provides that the expiration date of a prescription which is received by a dispensing optician is 2 years after the date the prescription was issued unless *the practitioner who wrote the prescription indicates* a ~~[shorter]~~ *different* period*.* ~~[is indicated for a specific patient.]~~

Existing law authorizes any member of the Board to issue subpoenas to compel the attendance of a witness to testify before the Board. (NRS 637.040) Section 2 of this bill authorizes any member of the Board to issue subpoenas to compel the production of books, papers and documents.

Existing law authorizes the Board to renew an expired license or limited license to practice ophthalmic dispensing. (NRS 637.121, 637.140) Sections 3 and 5 of this bill provide that the Board may only renew an expired license or limited license if the license or limited license has been expired for 2 years or less.

Existing law authorizes the Board to issue a cease and desist order to a person practicing ophthalmic dispensing without a license. If the person does not comply with the cease and desist order within 30 days, the Board shall impose an administrative fine of up to $10,000 against the person. (NRS 637.181) Section 7 of this bill authorizes the Board to impose an administrative fine against a person practicing ophthalmic dispensing without a license without regard to whether or not the person failed to comply with a cease and desist order.

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

Section 1. Chapter 637 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. *1. The Board shall adopt regulations setting forth minimum standards for lenses, frames, specially fabricated optical devices and other ophthalmic devices dispensed by a person licensed as a dispensing optician.*

2. The standards adopted by the Board must be consistent with the minimum standards of quality approved by the American National Standards Institute.

Sec. 1.7. *A prescription received by a dispensing optician shall be deemed to have an expiration date of 2 years after the date the prescription was issued unless the practitioner who wrote the prescription includes on the prescription* ~~*[that a shorter period is required for the specific patient.]*~~ *a different period.*

Sec. 2. NRS 637.040 is hereby amended to read as follows:

637.040 1. The Board shall elect a President, Vice President, Secretary and Treasurer from its membership.

2. Any member of the Board may:

(a) Issue subpoenas to compel *the* attendance of witnesses to testify before the Board ~~[.]~~ *or the production of books, papers and documents.* Subpoenas must issue under the seal of the Board and must be served in the same manner as subpoenas issued out of the district court.

(b) Administer oaths in taking testimony in any matter pertaining to the duties of the Board.

Sec. 3. NRS 637.121 is hereby amended to read as follows:

637.121 1. Except as otherwise provided in this section, a limited license as a dispensing optician authorizes the licensee to engage in the practice of ophthalmic dispensing pursuant to this chapter.

2. Only a person who is deemed to hold an active, inactive or delinquent limited license as a dispensing optician on February 1, 2004, may hold a limited license as a dispensing optician. A limited license as a dispensing optician may not be issued to any other person.

3. A person practicing ophthalmic dispensing pursuant to a limited license:

(a) Except as otherwise provided in this section, is subject to the provisions of this chapter in the same manner as a person practicing ophthalmic dispensing pursuant to a license issued pursuant to NRS 637.120, including, without limitation, the provisions of this chapter governing the renewal or reactivation of a license; and

(b) Shall not sell, furnish or fit contact lenses.

4. A limited license as a dispensing optician:

(a) Expires on January 31 of each year.

(b) May be renewed before its expiration upon:

(1) Presentation of proof of completion of the continuing education required by this section; and

(2) Payment of a renewal fee set by the Board of not more than $200.

(c) Except as otherwise provided in subsection 5, is delinquent if it is not renewed before January 31 of each year. ~~[Such]~~ *Not later than 2 years after the expiration of a limited license,* a delinquent limited license may be reinstated, at the discretion of the Board, upon payment of each applicable annual renewal fee in addition to the annual delinquency fee set by the Board of not more than $500.

5. Upon written request to the Board, and payment of a fee not to exceed $300, a licensee in good standing may have his name and limited license as a dispensing optician transferred to an inactive list. Such a licensee shall not practice ophthalmic dispensing during the time the limited license is inactive. If an inactive licensee ~~[desires]~~ *wishes* to resume the practice of ophthalmic dispensing as limited by this section, the Board shall reactivate the limited license upon:

(a) If deemed necessary by the Board, the demonstration by the licensee that the licensee is then qualified and competent to practice;

(b) The completion of an application; and

(c) Payment of the renewal fee set by the Board pursuant to subsection 4.

6. To reactivate a limited license as a dispensing optician pursuant to subsection 5, an inactive licensee is not required to pay the delinquency fee and the renewal fee for any year while the license was inactive.

7. Except as otherwise provided in subsection 8, each person with a limited license as a dispensing optician must complete courses of continuing education in ophthalmic dispensing each year. Such continuing education must:

(a) Encompass such subjects as are established by regulations of the Board.

(b) Consist of a minimum of 12 hours for a period of 12 months.

8. A person with a limited license as a dispensing optician who is on active military service is exempt from the requirements of subsection 7.

9. The Board shall adopt any *other* regulations *it determines are* necessary to carry out the provisions of this section.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 637.140 is hereby amended to read as follows:

637.140 1. A license as a dispensing optician issued under the provisions of this chapter expires on January 31 of each year.

2. A license may be renewed before its expiration upon:

(a) Presentation of proof of completion of the continuing education required by NRS 637.135; and

(b) Payment of a renewal fee set by the Board of not more than $500.

3. Except as otherwise provided in subsection 4, any license which is not renewed before January 31 of each year shall be deemed delinquent. ~~[A]~~ *Not later than 2 years after the expiration of a license, a* delinquent license may be reinstated, at the discretion of the Board, upon payment of each applicable annual renewal fee in addition to the annual delinquency fee set by the Board of not more than $500.

4. Upon written request to the Board, and payment of a fee not to exceed $300, a licensee in good standing may have his name and license transferred to an inactive list. Such a licensee shall not practice ophthalmic dispensing during the time the license is inactive. If an inactive licensee desires to resume the practice of ophthalmic dispensing, the Board shall reactivate the license upon the:

(a) Demonstration , if deemed necessary by the Board , that the licensee is then qualified and competent to practice;

(b) Completion of an application; and

(c) Payment of the renewal fee set by the Board pursuant to subsection 2.

➥ Payment of the delinquency fee and the renewal fee for any year while the license was inactive is not required.

Sec. 6. NRS 637.150 is hereby amended to read as follows:

637.150 1. Upon proof by substantial evidence that an applicant or holder of a license:

(a) Has been adjudicated insane;

(b) Habitually uses any controlled substance or intoxicant;

(c) Has been convicted of a crime involving moral turpitude;

(d) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(e) Has advertised in any manner which would tend to deceive, defraud or mislead the public;

(f) Has presented to the Board any diploma, license or certificate that has been signed or issued unlawfully or under fraudulent representations, or obtains or has obtained a license to practice in the State through fraud of any kind;

(g) Has been convicted of a violation of any federal or state law relating to a controlled substance;

(h) *Has, without proper verification, dispensed a lens, frame, specially fabricated optical device or other ophthalmic device that does not satisfy the minimum standards established by the Board pursuant to section 1.3 of this act;*

(i) Has violated any regulation of the Board;

~~[(i)]~~ *(j)* Has violated any provision of this chapter;

~~[(j)]~~ *(k)* Is incompetent;

~~[(k)]~~ *(l)* Is guilty of unethical or unprofessional conduct as determined by the Board;

~~[(l)]~~ *(m)* Is guilty of repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner; or

~~[(m)]~~ *(n)* Is guilty of a fraudulent or deceptive practice as determined by the Board,

➥ the Board may, in the case of an applicant, refuse to grant him a license, or may, in the case of a holder of a license, place him on probation, reprimand him publicly, require him to pay an administrative fine of not more than $10,000, suspend or revoke his license, or take any combination of these disciplinary actions.

2. The Board shall not privately reprimand a holder of a license.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 7. NRS 637.181 is hereby amended to read as follows:

637.181 Notwithstanding the provisions of chapter 622A of NRS:

1. The Board shall conduct an investigation if it receives a complaint that sets forth reason to believe that a person, without the proper license, is engaging in an activity for which a license is required pursuant to this chapter. The complaint must be:

(a) Made in writing; and

(b) Signed and verified by the person filing the complaint.

2. If the Board determines that a person, without the proper license, is engaging in an activity for which a license is required pursuant to this chapter, the Board ~~[shall]~~ *:*

(a) Shall issue and serve on the person an order to cease and desist *from* engaging in the activity until such time as the person obtains the proper license from the Board.

~~[3. If a person upon whom an order to cease and desist is served does not comply with the order within 30 days after service, the Board shall,]~~

(b) May, after notice and opportunity for a hearing, impose upon the person an administrative fine of not more than $10,000. The imposition of an administrative fine is a final decision for the purposes of judicial review.

~~[4.]~~ *3.* An administrative fine imposed pursuant to this section is in addition to any other penalty provided in this chapter.

Sec. 8. NRS 637.190 is hereby amended to read as follows:

637.190 1. The district court in the county in which any hearing is being conducted by the Board may compel the attendance of witnesses, the giving of testimony and the production of books , ~~[and]~~ papers *or documents* as required by any subpoena issued by the Board.

2. If any witness refuses to attend or testify or produce any *books,* papers *or documents* required by such *a* subpoena, the Board may report to the district court for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books ~~[and papers;]~~ , *papers or documents;*

(b) That the witness has been subpoenaed in the manner prescribed in NRS 637.040; and

(c) That the witness has failed and refused to attend or produce the *books,* papers *or documents* required by subpoena before the Board in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of ~~[such]~~ *the* hearing,

➥ and asking an order of the court compelling the witness to attend and testify or produce the books , ~~[or]~~ papers *or documents* before the Board.

3. The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in ~~[such]~~ *the* order, the time to be not more than 10 days ~~[from]~~ *after* the date of the order, and then and there show cause why he has not attended or testified or produced the books , ~~[or]~~ papers *or documents* before the Board. A certified copy of the order must be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Board, the court may thereupon enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books ~~[or papers,]~~ *, papers or documents* and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Sec. 9. This act becomes effective on July 1, 2007.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 304.

Bill read second time.

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

Amendment No. 911.

"SUMMARY—Makes various changes to provisions relating to manufactured home parks. (BDR 10-1119)"

"AN ACT relating to manufactured home parks; revising the provisions relating to the review of rental agreements and other residency documents; revising the provisions relating to certain repairs to a manufactured home; making changes pertaining to rules and regulations of a manufactured home park; revising the provisions relating to meetings between a landlord and tenants under certain circumstances; requiring a landlord to pay certain costs associated with the conversion of a manufactured home park; ~~[prohibiting local governing bodies from restricting the installation of certain manufactured homes;]~~ *increasing the amount of the limitation on the lien of a landlord;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes provisions relating to rental agreements and other residency documents. (NRS 118B.040) Section 1 of this bill removes the requirement that a landlord must allow a tenant to review such documents for 72 hours during which time a landlord is not prevented from accepting another tenant for the same residency. Instead, section 1 requires a landlord to give a prospective tenant a copy of the rental agreement, a copy of the rules and regulations of the manufactured home park, any existing notices of the sale, closure or conversion of the manufactured home park and any other residency documents before requiring or accepting any application fee.

Existing law sets forth requirements relating to the repair of a manufactured home and prohibits a landlord from allowing a third party to make such repairs under certain circumstances. (NRS 118B.097) Section 2 of this bill replaces a prohibition on allowing a third party to make repairs that affect life, health or safety with a list of specific repairs that a landlord may not allow a third party to make. Section 2 also prohibits landlords from employing certain persons to make such repairs. *Further, section 2 requires the Administrator of the Manufactured Housing Division of the Department of Business and Industry to adopt regulations to specify the repairs that a person without an applicable license may make to a manufactured home.*

Section 3 of this bill revises the provisions relating to a landlord's adoption of rules and regulations concerning a manufactured home park and provides that a properly adopted or amended rule or regulation supersedes any inconsistent prior rule or regulation. (NRS 118B.100) Section 3 also requires

a landlord to provide a copy of such rules and regulations to a tenant at the time the tenant enters into a rental agreement.

Existing law establishes provisions relating to meetings between a landlord and representative groups of tenants to hear complaints and suggestions regarding a manufactured home park. (NRS 118B.110) Section 4 of this bill provides for a natural person designated by the owner to meet with tenants for such purposes. Section 4 also prohibits a manager from meeting with tenants for such purposes unless the manager, the landlord and the owner are all the same natural person.

Existing law requires a landlord to pay to a tenant the fair market value of a manufactured home under certain circumstances during the conversion of a manufactured home park. (NRS 118B.183) Section 5 of this bill requires a landlord to pay costs associated with determining the market value of such manufactured homes and the reasonable cost of removing and disposing of such homes.

~~[Existing law allows local governing bodies to adopt certain ordinances and regulations relating to manufactured homes. (NRS 278.0209, 278.02095, 489.288) Sections 7-9 of this bill prohibit local governing bodies from restricting the installation of manufactured homes based on their date of manufacture.]~~

Section 6.5 of this bill increases the limitation on the amount of a lien that a landlord may hold for the total amount due and unpaid for rentals and utilities from $2,000 to $5,000.

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

Section 1. NRS 118B.040 is hereby amended to read as follows:

118B.040 1. ~~[An approved applicant for residency may request 72 hours to review the proposed rental agreement or lease, the rules and regulations of the manufactured home park and other residency documents. Upon receiving such a request, the landlord shall allow the approved applicant to review the documents for 72 hours. This review period does not, however, prevent the landlord from accepting another tenant for the space or residency while the 72 hours is pending.]~~ *Before requiring or accepting payment of any application fee, a landlord shall give to a prospective tenant who may rent or lease a manufactured home lot:*

(a) A copy of the rental agreement or lease;

(b) A copy of the rules and regulations governing the manufactured home park;

(c) Any notices of the sale, closure or conversion of the manufactured home park that must be provided to tenants pursuant to the provisions of this chapter; and

(d) Any other residency documents.

2. A rental agreement or lease between a landlord and tenant to rent or lease any manufactured home lot must be in writing. ~~[The landlord shall give the tenant a copy of the agreement or lease at the time the tenant signs it.]~~

3. A rental agreement or lease must contain, but is not limited to, provisions relating to:

(a) The duration of the agreement.

(b) The amount of rent, the manner and time of its payment and the amount of any charges for late payment and dishonored checks.

(c) Restrictions on occupancy by children or pets.

(d) Services and utilities included with the rental of a lot and the responsibility of maintaining or paying for them, including the charge, if any, for cleaning the lots.

(e) Deposits which may be required and the conditions for their refund.

(f) Maintenance which the tenant is required to perform and any appurtenances he is required to provide.

(g) The name and address of the owner of the manufactured home park and his authorized agent.

(h) Any restrictions on subletting.

(i) Any recreational facilities and other amenities provided to the tenant and any deposits or fees required for their use.

(j) Any restriction of the park to older persons pursuant to federal law.

(k) The dimensions of the manufactured home lot of the tenant.

(l) A summary of the provisions of NRS 202.470.

(m) Information regarding the procedure pursuant to which a tenant may report to the appropriate authorities:

(1) A nuisance.

(2) A violation of a building, safety or health code or regulation.

(n) Information regarding the right of the tenant to engage in the display of the flag of the United States, as set forth in NRS 118B.143.

(o) The amount to be charged each month to the tenant to reimburse the landlord for the cost of a capital improvement to the manufactured home park. Such an amount must be stated separately and include the length of time the charge will be collected and the total amount to be recovered by the landlord from all tenants in the manufactured home park.

Sec. 2. NRS 118B.097 is hereby amended to read as follows:

118B.097 *1.* If a repair to a manufactured home may affect ~~[life, health or safety]~~ *the structural, electrical, plumbing, drainage, roofing, mechanical or solid fuel burning systems of the home, or requires a permit before the repair may be made,* ~~[and]~~ the repair may be performed legally only by a person who is qualified by licensure ~~[or certification]~~ to perform such a repair ~~[:]~~ *, and:*

~~[1.]~~ *(a)* A person shall not perform the repair unless he has such qualifications; and

~~[2.]~~ *(b)* A tenant or a landlord, or his agent or employee, shall not ~~[allow]~~ *employ* a third party to perform the repair if he knows or, in light of all the surrounding facts and circumstances, reasonably should know that the third party does not have such qualifications.

2. The Administrator shall adopt regulations to specify the repairs that a person without an applicable license may make to a manufactured home in accordance with the provisions of this section and chapter 489 of NRS.

Sec. 3. NRS 118B.100 is hereby amended to read as follows:

118B.100 1. The landlord may adopt rules or regulations concerning the tenant's use and occupancy of the manufactured home lot and the grounds, areas and facilities of the manufactured home park held out for the use of tenants generally.

2. All such rules or regulations must be:

(a) Reasonably related to the purpose for which they are adopted;

(b) Sufficiently explicit in their prohibition, direction or limitation to inform the tenant of what he must do or not do for compliance;

(c) Adopted in good faith and not for the purpose of evading any obligation of the landlord arising under the law;

(d) Consistent with the provisions of this chapter and a general plan of operation, construction or improvement, and must not arbitrarily restrict conduct or require any capital improvement by the tenant which is not specified in the rental agreement or unreasonably require a change in any capital improvement made by the tenant and previously approved by the landlord unless the landlord can show that it is in the best interest of the other tenants; and

(e) Uniformly enforced against all tenants in the park, including the managers. Any rule or regulation which is not so uniformly enforced may not be enforced against any tenant.

3. No rule or regulation may be used to impose any additional charge for occupancy of a manufactured home lot or modify the terms of a rental agreement.

4. Except as otherwise provided in subsection 5, a rule or regulation is enforceable against the tenant only if he has notice of it at the time he enters into the rental agreement. A rule or regulation adopted or amended after the tenant enters into the rental agreement is not enforceable unless the tenant consents to it in writing or is given 60 days' notice of it in writing. The landlord may not adopt or amend a rule or regulation of the park unless a meeting of the tenants is held to discuss the proposal and the landlord provides each tenant with notice of the proposal and the date, time and place of the meeting not less than 60 days before the meeting. The notice must include a copy of the proposed adoption or amendment of the rule or regulation. A notice in a periodic publication of the park does not constitute notice for the purposes of this subsection.

5. A rule or regulation pertaining to recreational facilities in the manufactured home park must be in writing to be enforceable.

6. *A rule or regulation adopted or amended in compliance with the provisions of this section supersedes any previously existing rule or regulation that conflicts with the adopted or amended rule or regulation.*

Only one version of any rules and regulations or any architectural standards may be in effect at any given time.

7. The landlord shall provide the tenant with a copy of the existing rules and regulations at the time the tenant enters into the rental agreement.

8. As used in this section, "capital improvement" means an addition or betterment made to a manufactured home located on a lot in a manufactured home park which is leased by the landlord that:

(a) Consists of more than the repair or replacement of an existing facility;

(b) Is required by federal law to be amortized over its useful life for the purposes of income tax; and

(c) Has a useful life of 5 years or more.

Sec. 4. NRS 118B.110 is hereby amended to read as follows:

118B.110 1. The landlord *or a person designated pursuant to subsection 3* shall meet with a representative group of tenants occupying the park, chosen by the tenants, to hear any complaints or suggestions which concern a matter relevant to the park within 45 days after he receives a written request to do so which has been signed by persons occupying at least 25 percent of the lots in the park. The 25 percent must be calculated on the basis of one signature per occupied lot. The meeting must be held at a time and place which is convenient to the landlord *or person designated pursuant to subsection 3* and *to* the tenants. The representative group of tenants must consist of no more than five persons.

2. At least 10 days before any meeting is held pursuant to this section, the landlord or his agent shall post a notice of the meeting in a conspicuous place in a common area of the park.

3. ~~[If]~~ *Except as otherwise provided in subsection 4, if* the landlord is ~~[a:~~

~~(a) Sole proprietorship, the owner or an authorized agent or representative designated by the owner who has working knowledge of the operations of the park and authority to make decisions shall meet with the tenants.~~

~~(b) Partnership, a partner who has working knowledge of the operations of the park and authority to make decisions shall meet with the tenants.~~

~~(c) Corporation, an officer designated by the corporation]~~ *not a natural person, the owner may designate an authorized agent or representative* who has working knowledge of the operations of the park and *who has* authority to make decisions ~~[shall meet with the tenants.]~~ *concerning matters relevant to the park to meet with the tenants pursuant to this subsection.*

4. *A manager may not meet with the tenants pursuant to this section unless the manager, the landlord and the owner are all the same natural person.*

5. If an attorney for the landlord attends a meeting held pursuant to this section, the landlord shall not prohibit the group of tenants from being represented by an attorney at that meeting.

~~[5.]~~ *6.* If the landlord of a manufactured home park is a cooperative association or a corporation for public benefit, the landlord shall provide a

notice of the meeting to the Administrator and the Administrator or his representative shall attend the meeting.

~~[6.]~~ *7.* As used in this section:

(a) "Cooperative association" means an association formed pursuant to the provisions of NRS 81.170 to 81.270, inclusive.

(b) "Corporation for public benefit" has the meaning ascribed to it in NRS 82.021.

Sec. 5. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amount described in subsection 3 or 4, in accordance with the choice of the tenant; and

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location within 50 miles from the manufactured home park; or

(b) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles,

➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

4. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged, or there is no manufactured home park within 50 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home less the reasonable cost of removing and disposing of the manufactured home.

5. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

6. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

7. *The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.*

8. The provisions of this section do not apply to a corporate cooperative park.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. *NRS 108.290 is hereby amended to read as follows:*

108.290 1. If property that is the subject of a lien which is acquired as provided in NRS 108.270 to 108.360, inclusive, is the subject of a secured transaction in accordance with the laws of this State, the lien:

(a) In the case of a lien acquired pursuant to NRS 108.315, is a first lien.

(b) In the case of a lien on a motor vehicle for charges for towing, storing and any related administrative fees:

(1) For the first 30 days of the lien:

(I) If the amount of the lien does not exceed $1,000, is a first lien.

(II) If the amount of the lien exceeds $1,000, is a second lien.

(2) After the first 30 days of the lien:

(I) If the amount of the lien does not exceed $2,500, is a first lien.

(II) If the amount of the lien exceeds $2,500, is a second lien.

(c) In all other cases, if the amount of the lien:

(1) Does not exceed $1,000, is a first lien.

(2) Exceeds $1,000, is a second lien.

2. The lien of a landlord may not exceed ~~[$2,000]~~ *$5,000* or the total amount due and unpaid for rentals and utilities, whichever is the lesser.

Sec. 7. ~~[NRS 278.0209 is hereby amended to read as follows:~~

~~278.0209 1. In any ordinance relating to the zoning of land adopted or amended by a governing body, the definition of "single-family residence"~~

~~must include factory-built housing that has been built in compliance with the standards for single-family residential dwellings of the Uniform Building Code most recently adopted by the International Conference of Building Officials.~~

~~2. An ordinance of the governing body may require factory-built housing to comply with standards for safety which exceed the standards prescribed in subsection 1 if a single-family residential dwelling on the same lot is also required to comply with those standards.~~

~~3. The governing body shall adopt the same standards for development for the factory-built housing and the lot on which it is placed as those to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to:~~

~~(a) Requirements for the setback of buildings.~~

~~(b) Side and rear yard requirements.~~

~~(c) Standards for enclosures, access and the parking of vehicles.~~

~~(d) Aesthetic requirements.~~

~~(e) Requirements for minimum square footage.~~

~~(f) Requirements for design, style and structure.~~

~~4. The governing body may prohibit the installation of factory-built housing in a specified area if [:~~

~~(a) More than 5 years have elapsed between the date of manufacture of factory built housing and the date of the application for the issuance of a permit to install factory built housing in the affected area; or~~

~~(b) The]~~ ~~*the*~~ ~~area contains a building, structure or other object having a special character or special historical interest or value.~~

~~5. As used in this section, "factory-built housing" has the meaning ascribed to it in NRS 461.080.~~

~~6. The provisions of this section do not abrogate a recorded restrictive covenant.]~~ *(Deleted by amendment.)*

Sec. 8. ~~[NRS 278.02095 is hereby amended to read as follows:~~

~~278.02095 1. Except as otherwise provided in this section, in an ordinance relating to the zoning of land adopted or amended by a governing body, the definition of "single-family residence" must include a manufactured home.~~

~~2. Notwithstanding the provisions of subsection 1, a governing body shall adopt standards for the placement of a manufactured home that will not be affixed to a lot within a mobile home park which require that:~~

~~(a) The manufactured home:~~

~~(1) Be permanently affixed to a residential lot;~~

~~(2) [Be manufactured within the 5 years immediately preceding the date on which it is affixed to the residential lot;~~

~~(3)] Have exterior siding and roofing which is similar in color, material and appearance to the exterior siding and roofing primarily used on other single-family residential dwellings in the immediate vicinity of the manufactured home, as established by the governing body;~~

~~[(4)] *(3)* Consist of more than one section; and~~

~~[(5)] *(4)* Consist of at least 1,200 square feet of living area unless the governing body, by administrative variance or other expedited procedure established by the governing body, approves a lesser amount of square footage based on the size or configuration of the lot or the square footage of single family residential dwellings in the immediate vicinity of the manufactured home; and~~

~~(b) If the manufactured home has an elevated foundation, the foundation is masked architecturally in a manner determined by the governing body.~~

~~➥ The governing body of a local government in a county whose population is less than 40,000 may adopt standards that are less restrictive than the standards set forth in this subsection.~~

~~3. Standards adopted by a governing body pursuant to subsection 2 must be objective and documented clearly and must not be adopted to discourage or impede the construction or provision of affordable housing, including, without limitation, the use of manufactured homes for affordable housing.~~

~~4. Before a building department issues a permit to place a manufactured home on a lot pursuant to this section, other than a new manufactured home, the owner must surrender the certificate of ownership to the Manufactured Housing Division of the Department of Business and Industry. The Division shall provide proof of such a surrender to the owner who must submit that proof to the building department.~~

~~5. The provisions of this section do not abrogate a recorded restrictive covenant prohibiting manufactured homes nor do the provisions apply within the boundaries of a historic district established pursuant to NRS 384.005 or 384.100. An application to place a manufactured home on a residential lot pursuant to this section constitutes an attestation by the owner of the lot that the placement complies with all covenants, conditions and restrictions placed on the lot and that the lot is not located within a historic district.~~

~~6. As used in this section:~~

~~(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.~~

~~(b) "New manufactured home" has the meaning ascribed to it in NRS 489.125.]~~ *(Deleted by amendment.)*

Sec. 9. ~~[NRS 489.288 is hereby amended to read as follows:~~

~~489.288 Except as otherwise provided in NRS 278.02095:~~

~~1. A local governing body may adopt ordinances and regulations which, except for ordinances and regulations regarding any prerequisites to the classification of a manufactured home or mobile home as real property pursuant to NRS 361.244, are no more stringent than the provisions of this chapter, the regulations adopted pursuant to this chapter and applicable federal statutes and regulations. Compliance with an ordinance or regulation of a local governing body does not excuse any person from compliance with this chapter and the regulations adopted pursuant to this chapter.~~

~~2. *A local governing body shall not prohibit the installation of a manufactured home based on its date of manufacture if the manufactured*~~

~~*home otherwise complies with the provisions of this chapter and the regulations adopted pursuant to this chapter governing health and safety.*~~

~~*3.* The provisions of this chapter and the regulations adopted pursuant to this chapter supersede and preempt any ordinance or regulation of a local governing body that is more stringent than those provisions, except for an ordinance or regulation regarding any prerequisites to the classification of a manufactured home or mobile home as real property pursuant to NRS 361.244.~~] *(Deleted by amendment.)*

Sec. 10. (Deleted by amendment.)

Sec. 11. *The amendatory provisions of section 6.5 of this act do not apply to a lien that attaches before October 1, 2007.*

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider, Care and Townsend.

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

Amendment No. 911 to Assembly Bill No. 304 provides that the administrator of the Manufactured Housing Division shall adopt regulations specifying repairs that an unlicensed repairperson may perform on a manufactured home.

The amendment increases the amount of a landlord's lien for unpaid rent and utilities to $5,000. This provision does not apply to liens that attach prior to October 1, 2007.

The amendment deletes sections 7-9 relating to zoning ordinances regarding manufactured housing.

In regard to the regulations on unlicensed repairs to be adopted by the Director pursuant to section 2, the Senate Committee on Commerce and Labor wants to make it clear that it is the intent to allow a homeowner to make repairs to his own home to the extent that such repairs do not impact life, health or safety issues relating to structural, electrical, plumbing, drainage, roofing, mechanical or solid-fuel-burning systems. This is the Committee's intent, and the deletion of the specific reference to "life, health or safety" is not intended to prohibit an owner from making simple repairs such as fixing a leaky faucet, changing light bulbs or snaking out a clogged drainpipe since such minor repairs do not pose a danger to anyone. The intent of the Committee is to leave the specific details to the expertise of the Director acting in conjunction with interested parties who testify at workshops and public hearings held during the regulation adoption process.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 375.

Bill read second time.

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

Amendment No. 896.

"SUMMARY—Revises certain provisions governing mortgages. (BDR 54-393)"

"AN ACT relating to loans; *creating various education and examination requirements related to an initial license as a mortgage broker or mortgage agent; requiring the designation of a qualified employee for certain mortgage brokers; creating certain requirements related to continuing education and mortgage lending; creating certain requirements for fees associated with loans secured by liens on real property; providing for certain*

requirements related to mortgage brokers and broker-dealers, sales representatives, investment advisers and representatives of investment advisers; revising the possible range of certain fees related to a license as a mortgage broker; revising the apportionment of certain extra hours of continuing education earned by a mortgage broker; requiring the Commissioner of Mortgage Lending to adopt certain regulations concerning investors and limitations on loans to directors, officers and employees; *providing for biennial examinations of certain mortgage brokers under various circumstances; revising the deadline for certain financial statements by a mortgage broker; creating requirements for new financial statements related to certain accounts of a mortgage broker; revising certain advertising requirements of a mortgage broker;* prohibiting a mortgage broker from assigning all or part of his interest in a loan that is secured by a lien on real property under certain circumstances; *revising certain provisions related to persons not subject to chapter 645E of NRS; revising certain provisions related to persons exempt from chapter 645E of NRS;* ~~[requiring a mortgage banker to ensure that each loan secured by a lien on real property includes a reasonable fee for servicing the loan and that the fee is deposited in a trust account;]~~ *revising the possible range of fees for a license as a mortgage banker; revising provisions related to financial statements of a mortgage banker; revising provisions related to foreign corporations and what constitutes doing business in this State; requiring certain present and future mortgage broker and mortgage agent licensees to meet certain requirements;* providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law regulates the activities of various mortgage lenders, including the activities of mortgage brokers and mortgage bankers. (Chapters 645B and 645E of NRS) Existing law further provides that, subject to administrative supervision by the Director of the Department of Business and Industry, the Commissioner of Mortgage Lending is required to administer the provisions of law governing the licensing and regulation of mortgage brokers and mortgage bankers. (NRS 645B.060, 645E.300, 645F.250)

Section 1.4 of this bill revises the requirements for an initial license as a mortgage broker or mortgage agent regarding education on mortgage lending and applicable examinations.

Section 1.6 of this bill requires that a qualified employee be designated by a mortgage broker who is not a natural person.

Section 1.8 of this bill revises provisions concerning the requirements that a course of continuing education must meet, including, without limitation, requirements relating to providers and instructors, records, approval and revocation of approval of courses, monitoring, disciplinary action, and participation by representatives of the mortgage lending industry in the creation of the requirements.

~~[Sections 2 and 9]~~ *Section 2* of this bill ~~[, (1) require]~~ *requires* a mortgage broker ~~[and a mortgage banker, respectively,]~~ to ensure that each loan secured by a lien on real property for which the mortgage broker ~~[or mortgage banker]~~ engages in activity as a mortgage broker ~~[or mortgage banker]~~ includes a reasonable fee for servicing the loan. ~~[, and (2) require the establishment and maintenance of a trust account for the deposit of the fee for servicing a loan.]~~

Section 3 of this bill prohibits a mortgage broker who is licensed or exempt from licensing as a broker-dealer, sales representative, investment adviser or representative of an investment adviser under the laws of this State from commingling money received from mortgage transactions with money received from securities transactions.

Existing law describes various fees related to a license as a mortgage broker. (NRS 645B.050) Section 4.4 of this bill revises the range of fees that may be charged for a license as a mortgage broker.

Existing law describes various continuing education requirements for a mortgage broker. (NRS 645B.051) Section 4.8 of this bill revises how various extra hours of continuing education that are earned by a mortgage broker may be apportioned by the Commissioner.

Existing law defines an "investor" for purposes of chapter 645B of NRS to mean a person who wishes to acquire or who acquires ownership of or a beneficial interest in a loan that is secured by a lien on real property. (NRS 645B.0121) Section 5 of this bill requires the Commissioner to establish, by regulation, the financial conditions for an investor to acquire that ownership or beneficial interest in the loan.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) ~~[Sections]~~ *Section* 5 ~~[and 11]~~ of this bill ~~[require]~~ *requires* the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage brokers ~~[and mortgage bankers]~~ to directors, officers or employees of the mortgage broker. ~~[or mortgage banker.]~~

(NRS 645B.060)

Existing law provides for annual examinations of mortgage brokers. (NRS 645B.060) Section 5 of this bill provides for biennial examinations of a mortgage broker, rather than annual examinations, in certain circumstances.

Existing law provides for a mortgage broker to submit a financial statement to the Commissioner at the end of each fiscal year. (NRS 645B.085) Section 5.3 of this bill changes the deadline for this financial statement.

Existing law provides for requirements related to accounts for certain money received in relation to various loans secured by liens on real property. (NRS 645B.175) Section 5.6 of this bill requires the submission every 6 months of a new financial statement for such accounts.

Existing law provides for certain advertising requirements for mortgage brokers. (NRS 645B.189) Section 5.9 of this bill revises those requirements to require only those mortgage brokers who have received an initial license in the last 12 months to submit advertisements for the Commissioner's approval.

Existing law prohibits a mortgage broker from assigning his interest in a loan that is secured by a lien on real property unless the mortgage broker obtains title insurance for the property and records the assignment in the county recorder's office of the county in which the property is located. (NRS 645B.310) Section 6 of this bill requires the mortgage broker also to obtain the approval of each investor in the loan if, at the time of the assignment, the debtor on the loan is in default on his loan payments.

Existing law provides for persons who are not subject to chapter 645E of NRS. Section 10 of this bill clarifies which subsidiaries or holding companies are not subject to that chapter.

Existing law provides for the requirements that a person must meet to claim an exemption from the provisions of chapter 645E of NRS. (NRS 645E.160) Section 10.4 of this bill revises the requirements in regards to those who hold certain licenses and in regards to federal law.

Existing law provides for various fees related to a license as a mortgage banker. (NRS 645E.280) Section 10.8 of this bill revises the range of fees that may be charged for a license as a mortgage banker.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) Section 11 of this bill requires the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage bankers to directors, officers or employees of the mortgage banker. (NRS 645E.300)

Existing law provides for a mortgage banker to submit a financial statement to the Commissioner at the end of each fiscal year. (NRS 645E.360) Section 11.5 of this bill changes the deadline for this financial statement.

Existing law provides for the regulation of foreign corporations. (Chapter 80 of NRS) Section 12.4 of this bill revises the definition of what constitutes doing business in this State relating to foreign corporations and regarding the activities of a mortgage broker or a mortgage banker or arranging a mortgage loan that is not secured by commercial property.

Section 12.8 of this bill requires certain present and future holders of a license as a mortgage agent or mortgage broker or a designation as a qualified employee to meet various requirements contained in this bill.

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2 and]~~ *1.4 to* 3 *, inclusive,* of this act.

Sec. 1.4. *1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:*

(a) Complete education on mortgage lending as required by this chapter; or

(b) Successfully pass a written examination as determined by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division:

(a) May hire a testing organization to create, administer and score a written examination; and

(b) May create waivers for a written examination.

4. The Commissioner may adopt regulations to carry out the provisions of this section, including, without limitation, regulations relating to the content of a written examination, the scoring of a written examination or any possible waivers of a written examination.

Sec. 1.6. *1. If a mortgage broker is not a natural person, the mortgage broker must designate a natural person as a qualified employee to act on behalf of the mortgage broker.*

2. The Division shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 1.8. *1. A course of continuing education that is required pursuant to chapter 645B of NRS must meet the requirements set forth by the Commissioner by regulation.*

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

Sec. 2. ~~*[1.]*~~ *A mortgage broker shall ensure that* ~~*[:*~~

~~*(a) Each]*~~ *each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.*

~~*[(b) All money paid to the mortgage broker and his mortgage agents for servicing such a loan must be deposited in an insured depository financial*~~

~~*institution and kept separate, distinct and apart from money belonging to the mortgage broker. Such money, when deposited, is to be deposited under an appropriate name indicating that the accounts are not the money of the mortgage broker.*~~

~~*2. A mortgage broker has a fiduciary duty to each debtor with respect to the money in a trust account maintained pursuant to subsection 1.*~~

~~*3. A mortgage broker shall, upon reasonable notice, account to any debtor whose real property secures a loan arranged by the mortgage broker for any money which that person has paid to the mortgage broker for the cost of servicing a loan.*~~

~~*4. A mortgage broker shall submit to the Commissioner each calendar quarter a financial statement concerning the trust accounts established and maintained pursuant to subsection 1.*~~

~~*5. A mortgage broker shall annually review a trust account and, within 30 days after the completion of the annual review, notify the debtor:*~~

~~*(a) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual cost of servicing the loan; and*~~

~~*(b) That the debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a disposition within that time, the mortgage broker shall maintain the excess money in the trust account.]*~~

Sec. 3. *1. A mortgage broker who is a broker-dealer or a sales representative licensed pursuant to NRS 90.310 or who is exempt from licensure pursuant to NRS 90.320:*

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

2. A mortgage broker who is an investment ~~*[advisor]*~~ *adviser or a representative of an investment* ~~*[advisor]*~~ *adviser licensed pursuant to NRS 90.330 or exempt from licensure pursuant to NRS 90.340:*

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

Sec. 4. (Deleted by amendment.)

Sec. 4.4. *NRS 645B.050 is hereby amended to read as follows:*

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051; and

(d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of *not more than* $200; and

(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of *not more than* $100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, *not more than* $1,500 for the principal office and *not more than* $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, *not more than* $1,000 for the principal office and *not more than* $60 for each branch office.

(c) To renew a license, *not more than* $500 for the principal office and *not more than* $100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, *not more than* $200.

(b) To renew a certificate of exemption, *not more than* $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of *not more than* $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, ~~[increase]~~ *adjust* any fee set forth in this section if the Commissioner determines that such an ~~[increase]~~ *adjustment* is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any ~~[increase]~~ *adjustment* in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 4.8. NRS 645B.051 is hereby amended to read as follows:

645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that ~~[any]~~ *, if a person attends more than 10* hours of ~~[a certified course]~~ *certified courses* of continuing education ~~[attended]~~ during a 12-month period, ~~[but not needed]~~ *the extra hours may be used* to satisfy ~~[a requirement set forth in this section]~~ *the requirement* for the *immediately following* 12-month period ~~[in which the course was taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.]~~ *and for that immediately following 12-month period only.*

3. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which ~~[is certified by:~~

~~(a) The National Association of Mortgage Brokers or any successor in interest to that organization; or~~

~~(b) Any organization designated for this purpose by the Commissioner by regulation.]~~ *meets the requirements set forth by the Commissioner by regulation pursuant to section 1.8 of this act.*

Sec. 5. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise

general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt *regulations:*

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before ~~[and after]~~ becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any *other* regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

~~[(b)]~~ *(c)* Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~[(c)]~~ *(d)* ~~[Conduct]~~ *Except as otherwise provided in subsection 4, conduct* an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.

~~[(d)]~~ *(e)* Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary ~~[and proper]~~ for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

~~[(e)]~~ *(f)* Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

~~[(f)]~~ *(g)* Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of

this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct biennial examinations of a mortgage broker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage broker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.

Sec. 5.3. *NRS 645B.085 is hereby amended to read as follows:*

645B.085 1. Except as otherwise provided in this section, not later than ~~[90]~~ *120* days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage broker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection 4 of NRS 645B.175, those accounts must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage broker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 5.6. *NRS 645B.175 is hereby amended to read as follows:*

645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or his designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

(c) Pursuant to any instructions regarding the escrow account.

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or his designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and

(b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a mortgage broker and his mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.

(2) Received pursuant to subsection 1.

5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that he owns in the loan; and

(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.

6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the mortgage broker and his mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the

Commissioner each 6 calendar months a financial statement concerning those trust accounts.

11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.

Sec. 5.9. NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker *who has received his initial license within the past 12 months* shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 6. NRS 645B.310 is hereby amended to read as follows:

645B.310 A mortgage broker shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker:

1. Obtains a policy of title insurance for the real property; ~~[and]~~

2. *Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and*

3. Records the assignment in the office of the county recorder of the county in which the real property is located.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~[Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. A mortgage banker shall ensure that:*~~

~~*(a) Each loan secured by a lien on real property for which he engages in activity as a mortgage banker includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.*~~

~~*(b) All money paid to the mortgage banker for servicing such a loan must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage banker. Such money, when deposited, is to be deposited under an appropriate name indicating that the accounts are not the money of the mortgage banker.*~~

~~*2. A mortgage banker has a fiduciary duty to each debtor with respect to the money in a trust account maintained pursuant to subsection 1.*~~

~~*3. A mortgage banker shall, upon reasonable notice, account to any debtor whose real property secures a loan arranged by the mortgage banker for any money which that person has paid to the mortgage banker for the cost of servicing a loan.*~~

~~*4. A mortgage banker shall submit to the Commissioner each calendar quarter a financial statement concerning the trust accounts established and maintained pursuant to subsection 1.*~~

~~*5. A mortgage banker shall annually review a trust account and, within 30 days after the completion of the annual review, notify the debtor:*~~

~~*(a) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual cost of servicing the loan; and*~~

~~*(b) That the debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a disposition within that time, the mortgage banker shall maintain the excess money in the trust account.]~~ *(Deleted by amendment.)*

Sec. 10. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, ~~[unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.]~~ *including, without limitation, ~~[an affiliate,]~~ a subsidiary or a holding company of such a bank, company, association or union.*

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 10.4. *NRS 645E.160 is hereby amended to read as follows:*

645E.160 1. ~~[A]~~ *Except as otherwise provided in subsection 2, a* person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; ~~[and]~~

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150 ~~[.]~~ *; and*

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. *The provisions of subsection 1 do not apply to the extent preempted by federal law.*

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

~~[3.]~~ *4.* A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

~~[4.]~~ *5.* If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

~~[5.]~~ *6.* The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 10.8. *NRS 645E.280 is hereby amended to read as follows:*

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the license pursuant to this section.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before December 31 of any year, the license is cancelled. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of *not more than* $200.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before December 31 of any year, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) A reinstatement fee of *not more than* $100.

5. A person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, *not more than* $1,500 for the principal office and *not more than* $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, *not more than* $1,000 for the principal office and *not more than* $60 for each branch office.

(c) To renew a license, *not more than* $500 for the principal office and *not more than* $100 for each branch office.

6. A person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, *not more than* $200.

(b) To renew a certificate of exemption, *not more than* $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of *not more than* $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 11. NRS 645E.300 is hereby amended to read as follows:

645E.300 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage bankers doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt *regulations establishing* *reasonable* *limitations* *and guidelines on loans made by a mortgage banker to a director, officer or employee of the mortgage banker.*

(b) Adopt any *other* regulations that are necessary to carry out the provisions of this chapter, except as to loan fees.

~~[(b)]~~ *(c)* Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~[(c)]~~ *(d)* ~~[Conduct]~~ *Except as otherwise provided in subsection 4, conduct* an annual examination of each mortgage banker doing business in this State.

~~[(d)]~~ *(e)* Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary ~~[and proper]~~ for the efficient administration of the laws of this State regarding mortgage bankers.

~~[(e)]~~ *(f)* Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

~~[(f)]~~ *(g)* Conduct such examinations and investigations as are necessary to ensure that mortgage bankers meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage banker shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct biennial examinations of a mortgage banker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage banker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage banker; and

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division.

Sec. 11.5. NRS 645E.360 is hereby amended to read as follows:

645E.360 1. Except as otherwise provided in this section, not later than ~~[60]~~ *120* days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage banker by an independent public accountant who holds a permit to engage in the

practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.

3. If a mortgage banker maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage banker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 12. (Deleted by amendment.)

Sec. 12.4. *NRS 80.015 is hereby amended to read as follows:*

80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless he:

(a) Maintains an office in this State for the transaction of business; ~~[or]~~

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS ~~[.]~~ ;

(c) Solicits business for the activities of a mortgage broker as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100; or

(d) Arranges a mortgage loan secured by real property which is not commercial property as defined by NRS 645E.040.

4. The fact that a person is not doing business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 12.8. *1. Any person who received or will receive a mortgage agent license between October 1, 2004, and June 30, 2008, must fulfill the requirements of section 1.4 of this act before January 1, 2009, in the same manner as a person obtaining an initial license. If the person who received a mortgage agent license between October 1, 2004, and June 30, 2008, does not do so, the license of that person is suspended until he does so.*

2. Any natural person who received or will receive a mortgage broker license or an initial designation as a qualified employee by a mortgage broker between October 1, 2005, and June 30, 2008, must fulfill the requirements of section 1.4 of this act before January 1, 2009, in the same manner as a natural person obtaining an initial license. If the natural person who received a mortgage broker license or was initially designated as the qualified employee by a mortgage broker between October 1, 2005, and June 30, 2008, does not do so, the license of that natural person is suspended until he does so.

Sec. 13. *1.* This ~~[act becomes]~~ *section, section 1 and sections 2 to 12.4, inclusive, of this act become* effective upon passage and approval for the purpose of adopting regulations and on October 1, 2007, for all other purposes.

2. Sections 1.4, 1.6, 1.8 and 12.8 of this act become effective:

(a) Upon passage and approval for purpose of adopting regulations, administering examinations as set forth in section 1.4 *of this act and approving courses of continuing education as set forth in section 1.8 of this act; and*

(b) On July 1, 2008, for all other purposes.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 385.

Bill read second time.

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

Amendment No. 771.

"SUMMARY—Makes various changes concerning the practice of medicine. (BDR 54-356)"

"AN ACT relating to the practice of medicine; authorizing the Board of Medical Examiners to issue ~~[special]~~ restricted licenses *;* ~~[and establish fees for those licenses;]~~ regulating the performance of laser surgery, intense pulsed light therapy and the injection of ~~[cosmetic and]~~ chemotherapeutic ~~[substances;]~~ *agents;* increasing certain penalties; revising the scope of practice authorized for a physician practicing under a special volunteer medical license; making physicians subject to discipline for incurring or failing to report any disciplinary action in another jurisdiction or failing to obtain the informed consent of a patient to any procedure or therapy; providing peer reviewers and employees and volunteers working in a diversion program of the Board with limited civil immunity; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 16 of this bill extend to physician assistants certain duties and immunities applicable to other providers of health care. (NRS 41.505, 629.031)

~~[Sections 3 and 12]~~ *Section 3* of this bill ~~[authorize]~~ *authorizes* the Board of Medical Examiners to issue ~~[special]~~ restricted licenses to graduates of foreign medical schools who wish to engage in research, teaching or the practice of clinical medicine ~~[in special medical programs.]~~ *at a medical research facility or medical school in this State.*

~~[Sections 4 and 15.5 of this bill prohibit a person from performing a medical procedure in connection with laser surgery or intense pulsed light therapy unless the person is licensed as a physician , physician assistant, osteopathic physician or osteopathic physician's assistant.]~~ Sections 4 and 15.5 ~~[also require]~~ *of this bill provide* that laser surgery or intense pulsed light therapy on the globe of the eye *may* be performed *only* by a licensed

physician or osteopathic physician who has completed a residency program in ophthalmology.

Section 5 of this bill prohibits a person, other than a physician, from injecting a patient with any ~~[cosmetic or]~~ chemotherapeutic ~~[substance]~~ *agent classified as a prescription drug* unless the person is a licensed or certified health care worker, acting within the scope of his license or certificate and under the supervision of a physician. *Section 5 also defines the term "prescription drug" as a controlled substance or dangerous drug that may only be dispensed pursuant to a lawful prescription as well as any other substance or drug that can be substituted for such a controlled substance or drug.*

Section 17 of this bill provides for the creation of a subcommittee by the Legislative Committee on Health Care. Section 17 requires the subcommittee to review the regulation of the use of lasers and intense pulsed light therapy in the performance of medical procedures and the use of injections of chemotherapeutic substances in the performance of procedures.

Sections 8 and 9 of this bill increase the penalties for physicians who fail to provide written notice to the Board of changes in their status and location. (NRS 630.254, 630.255)

Section 10 of this bill expands the scope of practice authorized for a physician practicing under a special volunteer medical license to include the treatment of persons who are uninsured or unable to afford health care in addition to the treatment of persons who are indigent.

Sections 13 and 14 of this bill expand the acts for which the Board may initiate discipline or deny licensure to include: (1) any disciplinary action taken against a physician by another jurisdiction; (2) failing to report the disciplinary action; and (3) failing to obtain the informed consent of a patient before performing any procedure or prescribing any therapy. (NRS 630.301, 630.306)

Section 15 of this bill extends the Board's limited immunity from civil liability to the Board's peer reviewers and persons working in diversion programs. (NRS 630.364)

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

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, *physician assistant,* dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. *1. Except as otherwise provided in NRS 630.161, the Board may issue a ~~[special]~~ restricted license to ~~[practice medicine to]~~ a person who:*

(a) Is a graduate of a foreign medical school ;

(b) Teaches, researches or practices medicine outside of the United States;

(c) Is a recognized medical expert; and

(d) Intends to teach, ~~[who intends to teach, engage in]~~ research or practice clinical medicine ~~[in a special medical program that is approved by the Board and conducted by the University of Nevada School of Medicine or a medical research center that is recognized by the Board.]~~ at a medical research facility or medical school in this State.

2. A person who applies for a ~~[special]~~ restricted license pursuant to this section is not required to take or pass a written examination concerning his qualifications to practice medicine, but the person must satisfy the requirements for a ~~[special]~~ restricted license set forth in regulations adopted by the Board.

3. A person who holds a ~~[special]~~ restricted license pursuant to this section may practice medicine in this State only in accordance with the terms and restrictions established by the Board.

~~[4. A special restricted license expires automatically if the holder of the license ceases to practice medicine in the special medical program for which he received the license. The University of Nevada School of Medicine or medical research center that conducts the special medical program shall notify the Board within 10 days after the holder of the license ceases to practice medicine in the special medical program.~~

~~5. The Board may renew or modify a special restricted license unless the license expired automatically or was revoked by the Board.~~

~~6. The Board shall adopt regulations to carry out the provisions of this section.]~~

Sec. 4. *~~[1. Except as otherwise provided in section 15.5 of this act, a person shall not perform a medical procedure in connection with laser surgery or intense pulsed light therapy unless he holds a license issued pursuant to this chapter as a physician or physician assistant.~~*

~~2.]~~ Laser surgery or intense pulsed light therapy on the globe of the eye of a patient may be performed only by a licensed physician who has completed a program of progressive postgraduate education in ophthalmology as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Council on Medical Education of the Canadian Medical Association.

Sec. 5. *1. A person, other than a physician, shall not inject a patient with any ~~[cosmetic or]~~ chemotherapeutic ~~[substance]~~ agent classified as a prescription drug unless:*

~~[1.]~~ (a) The person is licensed or certified to perform medical services pursuant to this title;

~~[2.]~~ (b) The administration of the injection is within the scope of the person's license or certificate; and

~~[3.]~~ (c) The person administers the injection under the supervision of a physician. The Board shall prescribe the requirements for supervision pursuant to this subsection.

2. As used in this section:

(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

(b) "Prescription drug" means:

(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and

(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.

Sec. 6. NRS 630.025 is hereby amended to read as follows:

630.025 "Supervising physician" means an active physician licensed *and in good standing* in the State of Nevada who ~~[employs and]~~ supervises a physician assistant.

Sec. 7. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, *and section 3 of this act*, a license may be issued to any person who:

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

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain ~~[such]~~ *the* certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of ~~[such postgraduate education must be]~~ *which must have been completed* as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

Sec. 8. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board *in writing* of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board *in writing* of a change in his permanent mailing address within 30 days after the change, the Board:

(a) Shall impose upon the licensee a fine not to exceed ~~[$100;]~~ *$250;* and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board *in writing* of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

(a) Notify the Board *in writing* of this occurrence within 14 days after the closure; and

(b) For a period of 5 years thereafter keep the Board apprised *in writing* of the location of the medical records of his patients.

Sec. 9. NRS 630.255 is hereby amended to read as follows:

630.255 1. Any licensee who changes the location of his practice of medicine from this State to another state or country, has never engaged in the practice of medicine in this State after licensure or has ceased to engage in the practice of medicine in this State for 12 consecutive months may be placed on inactive status by order of the Board.

2. Each inactive registrant shall maintain a permanent mailing address with the Board to which all communications from the Board to the registrant must be sent. An inactive registrant who changes his permanent mailing address shall notify the Board *in writing* of his new permanent mailing address within 30 days after the change. If an inactive registrant fails to notify the Board *in writing* of a change in his permanent mailing address within 30 days after the change, the Board shall impose upon the registrant a fine not to exceed ~~[$100.]~~ *$250.*

3. Before resuming the practice of medicine in this State, the inactive registrant must:

(a) Notify the Board of his intent to resume the practice of medicine in this State;

(b) File an affidavit with the Board describing his activities during the period of his inactive status;

(c) Complete the form for registration for active status;

(d) Pay the applicable fee for biennial registration; and

(e) Satisfy the Board of his competence to practice medicine.

4. If the Board determines that the conduct or competence of the registrant during the period of inactive status would have warranted denial of an application for a license to practice medicine in this State, the Board may refuse to place the registrant on active status.

Sec. 10. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who wishes to donate his expertise for the medical care and treatment of ~~[indigent]~~ persons in this State *who are indigent, uninsured or unable to afford health care* may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical

care to ~~[indigent]~~ persons in this State ~~[,]~~ *who are indigent, uninsured or unable to afford health care;* and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 11. NRS 630.265 is hereby amended to read as follows:

630.265 1. Except as otherwise provided in NRS 630.161, the Board may issue to a qualified applicant a limited license to practice medicine as a resident physician in a graduate program approved by the Accreditation Council for Graduate Medical Education if he is:

(a) A graduate of an accredited medical school in the United States or Canada; or

(b) A graduate of a foreign medical school and has received the standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by it.

2. The medical school or other institution sponsoring the program shall provide the Board with written confirmation that the applicant has been appointed to a position in the program and is a citizen of the United States or lawfully entitled to remain and work in the United States. ~~[Such a]~~ *A limited* license remains valid only while the licensee is actively practicing medicine

in the residency program and is legally entitled to work and remain in the United States.

3. The Board may issue ~~[such]~~ a limited license for not more than 1 year but may renew the license if the applicant for the limited license meets the requirements set forth by the Board by regulation.

4. The holder of a limited license may practice medicine only in connection with his duties as a resident physician or under such conditions as are approved by the director of the program . ~~[and the Board.]~~

5. The holder of a limited license granted pursuant to this section may be disciplined by the Board at any time for any of the grounds provided in NRS 630.161 or 630.301 to 630.3065, inclusive.

Sec. 12. ~~[NRS 630.268 is hereby amended to read as follows:~~

~~630.268 1. The Board shall charge and collect not more than the following fees:~~

~~For application for and issuance of a license to practice as a physician, including a license by endorsement ..... $600~~
~~For application for and issuance of a temporary, locum tenens, limited, restricted, special , *special restricted* or special purpose license ..... 400~~
~~For renewal of a limited, restricted or special license ..... $400~~
~~For application for and issuance of a license as a physician assistant ..... 400~~
~~For biennial registration of a physician assistant ..... 800~~
~~For biennial registration of a physician ..... 800~~
~~For application for and issuance of a license as a practitioner of respiratory care ..... 400~~
~~For biennial registration of a practitioner of respiratory care ..... 600~~
~~For biennial registration for a physician who is on inactive status ..... 400~~
~~For written verification of licensure ..... 50~~
~~For a duplicate identification card ..... 25~~
~~For a duplicate license ..... 50~~
~~For computer printouts or labels ..... 500~~
~~For verification of a listing of physicians, per hour ..... 20~~
~~For furnishing a list of new physicians ..... 100~~

~~2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for its other services.~~

~~3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. [Such a] A special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.]~~ *(Deleted by amendment.)*

Sec. 13. NRS 630.301 is hereby amended to read as follows:

630.301 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Conviction of a felony relating to the practice of medicine or the ability to practice medicine. A plea of nolo contendere is a conviction for the purposes of this subsection.

2. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310, or 616D.350 to 616D.440, inclusive.

3. ~~[The]~~ *Any disciplinary action, including, without limitation, the* revocation, suspension, modification or limitation of ~~[the]~~ *a* license to practice any type of medicine *, taken* by *another state, the Federal Government, a foreign country or* any other jurisdiction or the surrender of the license or discontinuing the practice of medicine while under investigation by any licensing authority, a medical facility, a branch of the Armed Services of the United States, an insurance company, an agency of the Federal Government or an employer.

4. Malpractice, which may be evidenced by claims settled against a practitioner, but only if ~~[such]~~ *the* malpractice is established by a preponderance of the evidence.

5. The engaging by a practitioner in any sexual activity with a patient who is currently being treated by the practitioner.

6. Disruptive behavior with physicians, hospital personnel, patients, members of the families of patients or any other persons if the behavior interferes with patient care or has an adverse impact on the quality of care rendered to a patient.

7. The engaging in conduct that violates the trust of a patient and exploits the relationship between the physician and the patient for financial or other personal gain.

8. The failure to offer appropriate procedures or studies, to protest inappropriate denials by organizations for managed care, to provide necessary services or to refer a patient to an appropriate provider, when ~~[such a]~~ *the* failure occurs with the intent of positively influencing the financial well-being of the practitioner or an insurer.

9. The engaging in conduct that brings the medical profession into disrepute, including, without limitation, conduct that violates any provision of a code of ethics adopted by the Board by regulation based on a national code of ethics.

10. The engaging in sexual contact with the surrogate of a patient or other key persons related to a patient, including, without limitation, a spouse, parent or legal guardian, which exploits the relationship between the physician and the patient in a sexual manner.

11. Conviction of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS; or

(g) Any offense involving moral turpitude.

Sec. 14. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform.

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine ~~[are]~~ *is* experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report ~~[,]~~ *in writing,* within 30 days, *any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation,* the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

Sec. 15. NRS 630.364 is hereby amended to read as follows:

630.364 1. Any person or organization who furnishes information concerning an applicant for a license or a licensee in good faith and without malicious intent in accordance with the provisions of this chapter is immune from any civil action for furnishing that information.

2. The Board and any of its members and its staff, counsel, investigators, experts, *peer reviewers,* committees, panels, hearing officers__, ~~[and]~~ consultants *and the employees or volunteers of a diversion program* are immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in response to information acquired by the Board.

(b) Disseminating information concerning an applicant for a license or a licensee to other boards or agencies of the State, the Attorney General, any hospitals, medical societies, insurers, employers, patients and their families or any law enforcement agency.

3. As used in this section, "diversion program" means a program approved by the Board to correct a licensee's alcohol or drug dependence or any other impairment.

Sec. 15.5. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

~~*[1. Except as otherwise provided in section 4 of this act, a person shall not perform a medical procedure in connection with laser surgery or intense pulsed light therapy unless he holds a license or certificate issued pursuant to this chapter as an osteopathic physician or osteopathic physician's assistant.*~~

~~*2.]*~~ *Laser surgery or intense pulsed light therapy on the globe of the eye of a patient may be performed only by a licensed osteopathic physician who has completed a program of progressive postgraduate education in ophthalmology as a resident in the United States or Canada in a program approved by the ~~[Board,]~~ Bureau of Osteopathic Education of the American Osteopathic Association, the Accreditation Council for Graduate Medical Education or the Council on Medical Education of the Canadian Medical Association.*

Sec. 16. NRS 41.505 is hereby amended to read as follows:

41.505 1. Any physician , *physician assistant* or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant , *physician assistant* or registered nurse, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in giving that instruction or providing that supervision. An emergency medical attendant, *physician assistant,* registered nurse or licensed practical nurse who obeys an instruction given by a physician, *physician assistant,* registered nurse or

licensed practical nurse and thereby renders emergency care, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in rendering that emergency care.

2. Except as otherwise provided in subsection 3, any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state, who renders emergency care or assistance in an emergency, gratuitously and in good faith, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in rendering the emergency care or assistance or as a result of any failure to act, not amounting to gross negligence, to provide or arrange for further medical treatment for the injured or ill person. This section does not excuse a physician , *physician assistant* or nurse from liability for damages resulting from his acts or omissions which occur in a licensed medical facility relative to any person with whom there is a preexisting relationship as a patient.

3. Any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state who renders emergency obstetrical care or assistance to a pregnant woman during labor or the delivery of the child is not liable for any civil damages as a result of any act or omission by him in rendering that care or assistance if:

(a) The care or assistance is rendered in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct;

(b) The person has not previously provided prenatal or obstetrical care to the woman; and

(c) The damages are reasonably related to or primarily caused by a lack of prenatal care received by the woman.

➥ A licensed medical facility in which ~~[such]~~ *the* care or assistance is rendered is not liable for any civil damages as a result of any act or omission by the person in rendering that care or assistance if that person is not liable for any civil damages pursuant to this subsection and the actions of the medical facility relating to the rendering of that care or assistance do not amount to gross negligence or reckless, willful or wanton conduct.

4. Any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state who:

(a) Is retired or otherwise does not practice on a full-time basis; and

(b) Gratuitously and in good faith, renders medical care within the scope of his license to an indigent person,

➥ is not liable for any civil damages as a result of any act or omission by him, not amounting to gross negligence or reckless, willful or wanton conduct, in rendering that care.

5. Any person licensed to practice medicine under the provisions of chapter 630 or 633 of NRS or licensed to practice dentistry under the provisions of chapter 631 of NRS who renders care or assistance to a patient for a governmental entity or a nonprofit organization is not liable for any civil damages as a result of any act or omission by him in rendering that care or assistance if the care or assistance is rendered gratuitously, in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct.

6. 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.

(b) "Gratuitously" has the meaning ascribed to it in NRS 41.500.

Sec. 17. *1. The Legislative Committee on Health Care shall appoint a subcommittee to review the regulation of:*

(a) The use of lasers and intense pulsed light therapy in the performance of medical procedures on patients; and

(b) The use of injections of cosmetic or chemotherapeutic substances in the performance of procedures on patients.

2. The subcommittee must consist of at least three members of the Legislative Committee on Health Care, all of whom are to be appointed by the Chairman of the Legislative Committee on Health Care.

3. The Chairman of the Legislative Committee on Health Care shall designate a member of the subcommittee to serve as Chairman of the subcommittee.

4. The subcommittee shall:

(a) Conduct:

(1) A review of the laws and regulations of this State relating to the issues described in subsection 1; and

(2) A study concerning the issues described in subsection 1;

(b) In carrying out the provisions of paragraph (a), consult with a representative of:

(1) The practice of ophthalmology in this State;

(2) The practice of dermatology in this State;

(3) The practice of cosmetic or plastic surgery in this State; and

(4) The medical spa industry in this State; and

(c) Not later than June 30, 2008, submit a report of the results of its review and study and any recommendations for legislation to the Legislative Committee on Health Care.

5. The subcommittee may contract with such experts, researchers and consultants as may be necessary for the subcommittee to carry out its duties.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 396.

Bill read second time.

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

Amendment No. 910.

"SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-1284)"

"AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; ~~[prohibiting the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board; allowing the use of delegates or representatives to exercise the voting rights of owners of certain time shares;]~~ prohibiting an association in a common-interest community from imposing an assessment against *the owners of* certain tax-exempt property; ~~[requiring the signatures of certain persons before money in the operating account of an association may be withdrawn; revising the provisions relating to foreclosure of liens against units;]~~ providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; ~~[requiring applicants for a certificate for the management of a common-interest community to post certain bonds;]~~ *revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

~~[Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) Sections 1.3 and 3-6.3 of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. However, a master association which governs a time-share plan created pursuant to chapter 119A of NRS is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares.]~~

Section 2.5 of this bill prohibits an association from imposing an assessment against *the owner of any* property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. *Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.*

~~[Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) Section 6.7 of this bill also requires certain signatures before money in the operating account of an association may be withdrawn.~~

~~Existing law provides for an association to have a lien on a unit for any construction penalty, assessment or fine imposed against the unit's owner which may later be foreclosed upon. (NRS 116.3116) Section 7.5 of this bill requires an association to obtain approval from the Commission on Common-Interest Communities before attempting to foreclose its lien. The Commission must approve the foreclosure of the lien if the association has followed certain procedures. In addition, section 8 of this bill changes existing law to provide that the sale of a unit as a result of a foreclosure of a lien is subject to an equity or right of redemption. (NRS 116.31166)]~~

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section ~~9~~ of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. ~~[If an official publication contains information concerning a civil action or claim in which the association is a party, the official publication is not required to provide equal space to opposing views and opinions.]~~ In addition, section 9 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

~~[Existing law provides for the Commission to adopt regulations concerning the issuance of certificates for community managers. (NRS 116A.410) Section 10 of this bill provides that the regulations must: (1) require an applicant to post a bond in a form and in an amount established by regulation; and (2) adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.]~~

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

~~[1.]~~ (a) Disclose the matter to the executive board; and

~~[2.]~~ (b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 1.2. NRS 116.021 is hereby amended to read as follows:

116.021 *1.* "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

Sec. 1.3. ~~[NRS 116.1201 is hereby amended to read as follows:~~

~~116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.~~

~~2. This chapter does not apply to:~~

~~(a) A limited-purpose association, except that a limited-purpose association:~~

~~(1) Shall pay the fees required pursuant to NRS 116.31155;~~

~~(2) Shall register with the Ombudsman pursuant to NRS 116.31158;~~

~~(3) Shall comply with the provisions of:~~

~~(I) NRS 116.31038, 116.31083 and 116.31152; and~~

~~(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;~~

~~(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and~~

~~(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.~~

~~(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.~~

~~(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.~~

~~(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.~~

~~(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.~~

~~3. The provisions of this chapter do not:~~

~~(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;~~

~~(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;~~

~~(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; [or]~~

~~(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government [.]~~ ~~*, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; or*~~

~~*(c) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan.*~~

~~4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.~~

~~5. The Commission shall establish, by regulation:~~

~~(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and~~

~~(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.~~

~~6. As used in this section, "limited-purpose association" means an association that:~~

~~(a) Is created for the limited purpose of maintaining:~~

~~(1) The landscape of the common elements of a common interest community;~~

~~(2) Facilities for flood control; or~~

~~(3) A rural agricultural residential common interest community; and~~

~~(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited purpose association is created for a rural agricultural residential common-interest community.~~] *(Deleted by amendment.)*

Sec. 1.7. ~~[NRS 116.1203 is hereby amended to read as follows:~~

~~116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.~~

~~2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act,* and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.~~] *(Deleted by amendment.)*

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section*, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In

addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ *3* years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's

owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The ~~*[Except as otherwise provided in NRS 116.31105, the]*~~ election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot: ~~*[in the following manner:]*~~

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. *[*~~NRS 116.31036 is hereby amended to read as follows:~~

~~116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:~~

~~(a) At least 35 percent of the total number of voting members of the association; and~~

~~(b) At least a majority of all votes cast in that removal election.~~

~~2. [The] *Except as otherwise provided in NRS 116.31105, the* removal of any member of the executive board must be conducted by secret written ballot [unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:] *in the following manner:*~~

~~(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common interest community or to any other mailing address designated in writing by the unit's owner.~~

~~(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.~~

~~(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.~~

~~(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.~~

~~(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.~~

~~3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.~~

~~4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.]~~ (Deleted by amendment.)

Sec. 5. ~~[NRS 116.3108 is hereby amended to read as follows:~~

~~116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.~~

~~2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:~~

~~(a) The voting rights of the [units'] owners *of time shares* will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~4. The agenda for a meeting of the units' owners must consist of:~~

~~(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.~~

~~(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).~~

~~5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) The substance of all matters proposed, discussed or decided at the meeting; and~~

~~(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.~~

~~9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.~~

~~10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before~~

~~recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.~~] (Deleted by amendment.)

Sec. 6. ~~[NRS 116.311 is hereby amended to read as follows:~~

~~116.311 1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to that unit without protest made promptly to the person presiding over the meeting by any of the other owners of the unit.~~

~~2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.~~

~~3. Before a vote may be cast pursuant to a proxy:~~

~~(a) The proxy must be dated.~~

~~(b) The proxy must not purport to be revocable without notice.~~

~~(c) The proxy must designate the meeting for which it is executed.~~

~~(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner~~

~~has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.~~

~~(c) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.~~

~~4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.~~

~~5. [A]~~ ~~*Except as otherwise provided in this subsection, a* vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association . [unless]~~ ~~*A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if* the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.~~

~~6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.~~

~~7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.~~

~~8. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:~~

~~(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;~~

~~(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;~~

~~(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and~~

~~(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.~~

~~9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.]~~

(Deleted by amendment.)

Sec. 6.3. ~~[NRS 116.31105 is hereby amended to read as follows:~~

~~116.31105 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives [.]~~ ~~*except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*~~

~~2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives.~~ [.] ~~*except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*~~

~~*3. In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.*~~

~~*4.* For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.~~

[4.] ~~*5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.*~~

~~*6.* Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.~~

[5.] ~~*7.* When an election of a delegate or representative is conducted by secret written ballot:~~

~~(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.~~

~~(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.~~

~~(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.~~

~~(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.~~

~~(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.~~] (Deleted by amendment.)

Sec. 6.5. *NRS 116.31144 is hereby amended to read as follows:*

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section,* the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of *the* financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ *;*

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 6.7. ~~[NRS 116.31153 is hereby amended to read as follows:~~

~~116.31153 1. Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.~~

~~*2. Money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.]*~~ *(Deleted by amendment.)*

Sec. 7. (Deleted by amendment.)

Sec. 7.5. ~~[NRS 116.31162 is hereby amended to read as follows:~~

~~116.31162 1. Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:~~

~~(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest, at his address if known and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.~~

~~(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:~~

~~(1) Describe the deficiency in payment.~~

~~(2) State the name and address of the person authorized by the association to enforce the lien by sale.~~

~~(3) Contain, in 14-point bold type, the following warning:~~

~~WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!~~

~~*(c) The Commission has approved of the foreclosure of the lien. The Commission shall grant approval for the foreclosure of the lien if the Commission finds that the association has complied with paragraph (a) and the association or other person conducting the sale has complied with paragraph (b).*~~

~~*(d)* The unit's owner or his successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.~~

~~2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.~~

~~3. The period of 90 days begins on the first day following:~~

~~(a) The date on which the notice of default is recorded; or~~

~~(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest at his address, if known, and at the address of the unit,~~

~~whichever date occurs later.~~

~~4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:~~

~~(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or~~

~~(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.]~~ *(Deleted by amendment.)*

Sec. 8. ~~[NRS 116.31166 is hereby amended to read as follows:~~

~~116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:~~

~~(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;~~

~~(b) The elapsing of the 90 days; and~~

~~(c) The giving of notice of sale,~~

~~are conclusive proof of the matters recited.~~

~~2. Such a deed containing those recitals is conclusive against the unit's former owner, his heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.~~

~~3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 [vests in the purchaser the title of the unit's owner without]~~ ~~*is subject to an* equity or right of redemption.]~~ *(Deleted by amendment.)*

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent

of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community. ~~[If an official publication contains or will contain any information concerning a civil action or claim in which the association is a party, the official publication is not required to provide equal space to any opposing views or opinions.]~~

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 9.5. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide *financing,* goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing *financing,* goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any *financing,* goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 9.6. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is

within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. *An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.*

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 9.8. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ *:*

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of *inoperable vehicles,* recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 10. ~~[NRS 116A.410 is hereby amended to read as follows:]~~

~~116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:~~

~~(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.~~

~~(b) *Must require an applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.*~~

~~*(c)* May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.~~

~~[(c)] *(d)* May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.~~

~~[(d)] *(e)* Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.~~

~~[(e)] *(f)* Must establish rules of practice and procedure for conducting disciplinary hearings.~~

~~2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.]~~ *(Deleted by amendment.)*

Sec. 11. (Deleted by amendment.)

Sec. 12. ~~[1. This section becomes effective upon passage and approval.~~

~~2. Section 10 of this act becomes effective:~~

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

~~(b) On January 1, 2008, for all other purposes.~~

~~3. Sections 1 to 9, inclusive, and 11 of this act become effective on October 1, 2007.]~~ *(Deleted by amendment.)*

Sec. 13. *The amendatory provisions of section 2.5 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.*

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 910 to Assembly Bill No. 396 removes most, but not all, of the existing language in the bill and substitutes other provisions instead.

Among other things, the amendment clarifies that existing statutory language forbidding association executive-board members from having conflicts of interest regarding goods and services provided to the association also encompasses financial transactions with an association. This amendment also clarifies that an employee of a declarant who serves on the executive board shall not be deemed to have a conflict of interest solely because of such employment.

The amendment clarifies that an association must own common elements to be subject to NRS chapter 116.

The amendment exempts from association assessments any property that is tax exempt pursuant to NRS 361.125, which addresses houses of worship.

It changes the term of office for executive board members from two to three years.

It also authorizes the Commission for Common-Interest Communities to exempt certain low-income associations from financial reporting requirements and adjusts the time for filing other financial reports so they are not due during tax season when it is difficult to get them processed in time.

Any official association publication containing views or opinions of official interest must provide equal space to opposing views and opinions of association residents.

The amendment further clarifies that an association can interrupt utility service to a unit's owner or tenant for non payment of utility charges when due but must follow all existing legal requirements before doing so. This provision is designed to allow associations that are on a master utility meter to interrupt service to an individual unit if the owner or tenant does not pay their portion of the bill.

Finally, the amendment prohibits associations from placing certain restrictions on parking of utility service vehicles.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 404.

Bill read second time.

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

Amendment No. 857.

"SUMMARY—Revises provisions governing the use of credit information by insurers. (BDR 57-1335)"

"AN ACT relating to insurance; ~~[prohibiting]~~ *revising provisions concerning the notice that must be given by* an insurer ~~[from using]~~ *who uses*

certain credit information concerning an applicant or policyholder ~~[in underwriting or rating a policy;]~~ *under certain circumstances;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law regulates the use by an insurer of the credit information of a policyholder or an applicant for insurance. ~~[(NRS 686A.680) This bill prohibits an insurer from using the number of times that an applicant or policyholder opens or closes credit accounts during any specific period as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy.]~~ *(NRS 686A.600-686A.730) In particular, existing law requires an insurer who takes an adverse action against an applicant or policyholder based on his credit information to provide notice to the applicant or policyholder in accordance with federal law that an adverse action has been taken and to provide notice to the applicant or policyholder explaining the reasons for the adverse action. (NRS 686A.710) This bill requires the notice explaining the reasons for the adverse action to be provided in a form approved by the Commissioner of Insurance.*

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

Delete existing section 1 of this bill and replace with the following new section 1:

Section 1. NRS 686A.710 is hereby amended to read as follows:

686A.710 If an insurer takes an adverse action based upon credit information, the insurer shall:

1. Provide notice to the applicant or policyholder that an adverse action has been taken, in accordance with the requirements of section 615(a) of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681m(a).

2. Provide notice to the applicant or policyholder explaining the reasons for the adverse action. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's decision to take the adverse action. The notice must include a description of not more than four factors that were the primary influences of the adverse action. The use of generalized terms such as "poor credit history," "poor credit rating" or "poor insurance score" does not meet the requirements of this subsection. ~~[Standardized explanations provided by consumer reporting agencies are deemed to comply with this section.]~~ *The notice required by this subsection must be provided in a form approved by the Commissioner.*

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 406.

Bill read second time.

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

Amendment No. 739.

"SUMMARY—Revises various provisions relating to marriage licenses. (BDR 11-523)"

"AN ACT relating to marriage; ~~[requiring]~~ *revising the authority of* the board of county commissioners of certain counties to designate a branch office of the county clerk at which marriage licenses may be issued *;* ~~[and to establish and maintain that branch office in certain incorporated cities;]~~ *revising the requirements to obtain a marriage license;* revising provisions governing the content of marriage *licenses and* certificates; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires persons who wish to marry to obtain a license from the county clerk of any county in the State. This license must be issued at the seat of the county, unless the board of county commissioners, at the request of the county clerk, has designated a branch office of the county clerk at which marriage licenses may be issued. (NRS 122.040) Section 2 of this bill requires the board of county commissioners of a county whose population is 400,000 or more (currently Clark County) to designate one branch office of the county clerk at which marriage licenses may be issued ~~[and to establish and maintain that branch office]~~ , *which must be established and maintained* in an incorporated city whose population is 150,000 or more ~~[and]~~ *but* less than ~~[400,000]~~ *300,000* (currently Henderson). *In addition, section 2 increases from two to not more than four the number of such branch offices that the board of county commissioners in a county whose population is 400,000 or more is authorized to designate.*

Existing law provides that, before issuing a marriage license, the county clerk may require the applicant to produce evidence that the applicant is of age. (NRS 122.040) Section 2 of this bill requires each applicant for a marriage license to provide proof of the applicant's name and age by presenting certain documents to the county clerk.

Existing law requires an applicant for a marriage license to answer under oath each question contained in the form of license and to include his social security number on the affidavit of application for a marriage license. (NRS 122.040) Section 2 of this bill requires both applicants for a marriage license to satisfy these requirements, unless the county clerk or a district court finds that extraordinary circumstances prevent one applicant from appearing before the county clerk, and authorizes the county clerk to issue the license if one applicant satisfies these requirements.

Existing law ~~[provides for]~~ *prescribes* the content of marriage *licenses and marriage* certificates. (NRS *122.050,* 122.120) *Section 3.5 of this bill requires a marriage license to include the name of each applicant as shown on the documents presented to provide proof of the applicant's name and*

age. Section 4 of this bill requires a marriage certificate to include the date of birth of each applicant.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more ~~[may,]~~ *:*

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more ~~[and]~~ but less than ~~[400,000;]~~ 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate ~~[two]~~ *not more than four* branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Before issuing a marriage license, the county clerk ~~[may require evidence that the applicant for the license is of age. The county clerk shall accept a statement under oath by the applicant and the applicant's parent, if available, that the applicant is of age.]~~ *shall require each applicant to provide proof of the applicant's name and age. The county clerk may accept as proof of the applicant's name and age an original or certified copy of any of the following:*

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and a secondary form of identification that contains the name of the applicant. If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that the county clerk determines provides proof of the applicant's name and age.

3. ~~[The]~~ *Except as otherwise provided in subsection 4, the* county clerk issuing the license shall require ~~[the]~~ *each* applicant to answer under oath each of the questions contained in the form of license *.* ~~[,]~~ ~~[and, if the applicant cannot answer positively any questions with reference to the other person named in the license, the clerk shall require both persons named in the license to appear before him and to answer, under oath, the questions contained in the form of license.]~~ The county clerk shall require ~~[the]~~ *each* applicant to include ~~[his]~~ *the applicant's* social security number ~~[and the social security number of the other person named in the license]~~ on the affidavit of application for the marriage license. If ~~[either]~~ *a* person does not have a social security number, the person ~~[responding to the question]~~ must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person *,* ~~[responding to the question, he]~~ *the person* must state that the answer is unknown.

4. *Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:*

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk shall not require any evidence to verify a social security number.

➥ *If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown.*

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

~~[5.]~~ *6.* If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to him in writing.

~~[6.]~~ *7.* All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~[7.]~~ *8.* A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3. (Deleted by amendment.)

Sec. 3.5. *NRS 122.050 is hereby amended to read as follows:*

122.050 The marriage license must *contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must* be substantially in the following form:

MARRIAGE LICENSE

(EXPIRES 1 YEAR AFTER ISSUANCE)

State of Nevada .....}

}ss.

County of.....}

These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection 3 of NRS 122.080, or a municipal judge if authorized pursuant to subsection 4 of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage ..... of (City, town or location) ....., State of ..... State of birth (If not in U.S.A., name of country) .....; Date of birth ..... Father's name ..... Father's state of birth (If not in U.S.A., name of country) ..... Mother's maiden name ..... Mother's state of birth (If not in U.S.A., name of country) ..... Number of this marriage (1st, 2nd, etc.) ..... Wife deceased ..... Divorced ..... Annulled ..... When ..... Where ..... And ..... of (City, town or location) ....., State of ..... State of birth (If not in U.S.A., name of country) .....; Date of birth ..... Father's name ..... Father's state of birth (If not in U.S.A., name of country) ..... Mother's maiden name ..... Mother's state of birth (If not in U.S.A., name of country) ..... Number of this marriage (1st, 2nd, etc.) ..... Husband deceased ..... Divorced ..... Annulled ..... When ..... Where .....; and to certify the marriage according to law.

Witness my hand and the seal of the county, this ..... day of the month of ……. of the year .....

.....
(Seal) Clerk

.....
Deputy Clerk

Sec. 4. NRS 122.120 is hereby amended to read as follows:

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage *must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. The certificate of marriage* must be in substantially the following form:

STATE OF NEVADA
MARRIAGE CERTIFICATE

State of Nevada .....}
}ss.
County of.....}

This is to certify that the undersigned, ... (a minister of the gospel, judge, justice of the peace of ..... County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be), did on the ..... day of the month of ……. of the year ....., at ..... (address or church), ... (city), Nevada, join in lawful wedlock ..... (name), of ..... (city), State of ..... , *Date of birth* ....., and ..... (name), of .....(city), State of ..... , *Date of birth* ....., with their mutual consent, in the presence of ..... and ..... (witnesses).

.....
Signature of person performing
(Seal of County Clerk) the marriage

.....
Name under signature typewritten
or printed in black ink

.....
County Clerk

.....
Official title of person performing
the marriage

.....
.....
Couple's mailing address

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The signature of the person performing the marriage must be an original signature.

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of section 2 of this act.

Sec. 6. This act becomes effective on January 1, 2008.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 424.

Bill read second time.

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

Amendment No. 734.

"SUMMARY—Revises provisions relating to the licensure of counselors. (BDR 54-1294)"

"AN ACT relating to professions; providing for the licensing and regulation of clinical professional counselors *, clinical professional counselor interns* and clinical alcohol and drug abuse counselors; revising the name and expanding the membership of the Board of Examiners for Marriage and Family Therapists; providing a privilege against the disclosure of certain confidential communications between a clinical professional counselor and his client and certain other persons; requiring reimbursement for services provided by a licensed clinical professional counselor or licensed clinical alcohol and drug abuse counselor under certain policies of health insurance; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 6 and 7 of this bill provide definitions for the terms "clinical professional counselor" and "practice of clinical professional counseling." Sections 8 and ~~[9]~~ *99.5* of this bill establish the requirements for a license to practice as a clinical professional counselor. *Sections 8.2-9 of this bill set forth requirements governing clinical professional counselor interns.* Sections 10-14, ~~[16-28 and 30-32]~~ *18-21 and 23.5-32* of this bill ~~[amend certain provisions of chapter 641A of NRS to]~~ include clinical professional counselors *and clinical professional counselor interns* under the regulation of the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors. Section ~~[15]~~ *14.5 of this bill revises the definition of "practice of marriage and family therapy." Sections 15 and 15.5* of this bill ~~[increases the membership]~~ *increase the number of members* of the Board of Examiners for Marriage and Family Therapists and Clinical Professional

Counselors . ~~[from six to eight members. Section 16]~~ *Sections 16 and 16.5* of this bill ~~[requires that two]~~ *require that the additional* members of the Board ~~[must]~~ be licensed clinical professional counselors. Section 29 of this bill prohibits a person from engaging in the practice of clinical professional counseling without a license. Section 35 of this bill provides a definition of "clinical practice of counseling alcohol and drug abusers." Section 36 of this bill establishes the requirements for the issuance of a license as a clinical alcohol and drug abuse counselor. Section 37 of this bill establishes the requirements for certification as a clinical alcohol and drug abuse counselor intern. Section 38 of this bill establishes the scope of practice of a clinical alcohol and drug abuse counselor and the duration of his license. ~~[Section 45 of this bill revises the definition of the "practice of counseling alcohol and drug abusers."]~~ Section 54 of this bill clarifies the scope of practice of an alcohol and drug abuse counselor. Sections 63-66 of this bill provide a privilege against the disclosure of certain confidential communications between a clinical professional counselor and his client and certain other persons. Sections 2, ~~[70, 75, 76 and 85]~~ *71, 76, 77 and 86* of this bill include a clinical professional counselor in the definition of the term "provider of health care." Sections 72, 73 and 78 of this bill require a clinical professional counselor *and a clinical alcohol and drug abuse counselor* to report to certain governmental agencies, including law enforcement agencies, cases of known or suspected abuse or neglect of an older person, vulnerable person or a child. Sections ~~[70,]~~ 79, 81 and 83 of this bill include a clinical professional counselor in the definition of the term "person professionally qualified in the field of psychiatric mental health." Sections 92-99 of this bill require reimbursement for services provided by a licensed clinical professional counselor or clinical alcohol and drug abuse counselor under certain policies of health insurance.

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

Section 1. NRS 622A.120 is hereby amended to read as follows:

622A.120 1. The following regulatory bodies are exempted from the provisions of this chapter:

(a) State Contractors' Board.

(b) State Board of Professional Engineers and Land Surveyors.

(c) Nevada State Board of Accountancy.

(d) Board of Medical Examiners.

(e) Board of Dental Examiners of Nevada.

(f) State Board of Nursing.

(g) Chiropractic Physicians' Board of Nevada.

(h) Nevada State Board of Optometry.

(i) State Board of Pharmacy.

(j) Board of Examiners for Marriage and Family Therapists [.] *and Clinical Professional Counselors.*

(k) Real Estate Commission, Real Estate Administrator and Real Estate Division of the Department of Business and Industry.

(l) Commission of Appraisers of Real Estate.

(m) Commissioner of Mortgage Lending and Division of Mortgage Lending of the Department of Business and Industry.

(n) Commissioner of Financial Institutions and Division of Financial Institutions of the Department of Business and Industry.

(o) State Board of Health and Health Division of the Department of Health and Human Services.

2. Any regulatory body which is exempted from the provisions of this chapter pursuant to subsection 1 may elect by regulation to follow the provisions of this chapter or any portion thereof.

Sec. 2. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, *licensed clinical professional counselor*, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 3. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 4. NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;

2. A person who is licensed to practice dentistry in this State;

3. A person who is licensed as a marriage and family therapist pursuant to chapter 641A of NRS;

4. *A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;*

5. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;

~~[5.]~~ *6.* A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

~~[6.]~~ *7.* A person who is licensed *as a clinical alcohol and drug abuse counselor, licensed* or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, *a clinical alcohol and drug abuse counselor intern,* a problem gambling counselor or a problem gambling counselor intern , pursuant to chapter 641C of NRS; or

~~[7.]~~ *8.* Any clergyman,

➥ if such a person does not commit an act described in NRS 641.440 or represent himself as a psychologist.

Sec. 5. Chapter 641A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[6]~~ *5.5* to 9, inclusive, of this act.

Sec. 5.5. *"Approved supervisor" means a licensed clinical professional counselor who is approved by the Board to supervise a person who is acquiring the supervised experience in clinical professional counseling that is required for licensure as a clinical professional counselor pursuant to this chapter.*

Sec. 6. *"Clinical professional counselor" means a person who describes himself or his services to the public by any title or description which incorporates the term "clinical professional counselor" and under such a title offers to provide or provides services to any person.*

Sec. 7. ~~*[1.]*~~ *"Practice of clinical professional counseling" means* ~~*[assisting clients by the application of established principles, including, without limitation:*~~

~~*(a) Counseling by applying the principles, methods, techniques and theories of counseling, consultation, defining goals and developing a plan designed to prevent and resolve the emotional, social, cognitive and behavioral concerns of a client while promoting the overall development of his whole person;*~~

~~*(b) Consulting by applying principles and methods to provide assistance to a client in addressing the problems of another person;*~~

~~*(c) Referral of a client to another professional based on an evaluation of the needs of the client; and*~~

~~*(d) Research by a systematic effort to collect, analyze and interpret data that addresses the social interactions between persons.*~~

~~*2. The term does not include:*~~

~~*(a) The diagnosis or treatment of a psychotic disorder;*~~

~~*(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude, interests or addictions; or*~~

~~*(c) The assessment or treatment of couples or families.]*~~ *the provision of treatment, assessment and counseling, or equivalent activities, to a person or group of persons to achieve mental, emotional, physical, social and moral development and adjustment. The term includes counseling interventions to prevent, diagnose and treat mental, emotional or behavioral disorders and associated distresses which interfere with mental health. The term does not include:*

1. The practice of psychology or medicine;

2. The assessment or treatment of couples or families;

3. The prescription of drugs or electroconvulsive therapy;

4. The treatment of physical disease, injury or deformity;

5. The diagnosis or treatment of a psychotic disorder;

6. The use of projective techniques in the assessment of personality;

7. The use of psychological, neuropsychological or clinical tests designed to identify or classify abnormal or pathological human behavior;

8. The use of individually administered intelligence tests, academic achievement tests or neuropsychological tests; or

9. The use of psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed clinical psychologist.

Sec. 8. *Each applicant for a license to practice as a clinical professional counselor must furnish evidence satisfactory to the Board that he:*

1. Is at least 21 years of age;

2. Is of good moral character;

3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

4. Has:

(a) Completed his residency training in psychiatry from an accredited institution approved by the Board;

(b) A graduate degree ~~[in an accredited program for mental health counseling;]~~ from a program approved by the Council for Accreditation of Counseling and Related Educational Programs as a program in mental health counseling or community counseling; or

(c) ~~[Completed other education and training which is deemed equivalent by the Board;]~~ An acceptable degree as determined by the Board which includes the completion of a practicum and internship in mental health counseling which was taken concurrently with the degree program and was supervised by a licensed mental health professional; and

5. Has:

(a) At least 2 years of postgraduate experience in professional counseling; ~~[and]~~

(b) At least 3,000 hours of supervised experience in professional counseling ~~[, of which at]~~ which includes, without limitation:

(1) At least 1,500 hours ~~[must consist]~~ of direct contact with clients; and

(2) At least 100 hours of counseling under the direct supervision of an approved supervisor of which at least 1 hour per week was completed for each work setting at which the applicant provided counseling; and

(c) Either:

(1) Passed the National Counselor Examination for Licensure and Certification which is administered by the National Board for Certified Counselors and provided evidence satisfactory to the Board of at least 3 years of work experience in mental health counseling; or

(2) Passed the National Clinical Mental Health Counseling Examination which is administered by the National Board for Certified Counselors.

~~[6. Holds an undergraduate degree from an accredited institution approved by the Board.]~~

Sec. 8.2. 1. A person who wishes to obtain the supervised experience that is required for licensure as a clinical professional counselor pursuant to this chapter must obtain a license as a clinical professional counselor intern before beginning his supervised experience.

2. An applicant for a license as a clinical professional counselor intern must furnish evidence satisfactory to the Board that he:

(a) Is at least 21 years of age;

(b) Is of good moral character;

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

(d) Possesses a graduate degree in counseling from an accredited college or university approved by the Board which required the completion of a practicum or internship; and

(e) Has entered into a supervision agreement with an approved supervisor.

Sec. 8.4. A license as a clinical professional counselor intern:

1. Is valid for 5 years and may be renewed not more than once; and

2. Expires upon:

(a) The termination of the supervision agreement with an approved supervisor;

(b) A change in the approved supervisor; or

(c) The issuance of a license as a clinical professional counselor to the holder of the license as a clinical professional counselor intern.

Sec. 8.6. The holder of a license as a clinical professional counselor intern:

1. May engage in the practice of clinical professional counseling only for the purposes of obtaining the supervised experience required by subsection 5 of section 8 of this act for a license to practice as a clinical professional counselor; and

2. Shall not engage in the practice of clinical professional counseling independently.

Sec. 8.8. 1. The holder of a license as a clinical professional counselor intern shall, before providing any counseling or other therapeutic service to a client:

(a) Inform the client that he holds a license as a clinical professional counselor intern and is practicing under the supervision of an approved supervisor; and

(b) Provide to the client the name of his approved supervisor.

2. A violation of subsection 1 constitutes a ground for initiating disciplinary action or denying licensure.

Sec. 9. *1. ~~[Except as otherwise provided in subsection 2, each qualified applicant for a license to practice as a clinical professional counselor must be given a written examination by the Board on his knowledge of clinical professional counseling. Examinations must be given at a time and place and under such supervision as the Board may determine. A grade of 70 percent or higher is a passing grade.~~*

~~2. The Board shall accept receipt of a passing grade by a qualified applicant on the National Clinical Mental Health Counselor Examination~~

~~*administered by the National Board of Certified Counselors in lieu of requiring a written examination pursuant to subsection 1.*~~

~~*3. In addition to the requirements of subsections 1 and 2, the Board may require an oral examination. The Board may examine applicants in any applied or theoretical fields it deems appropriate.]*~~ *The holder of a license as a clinical professional counselor intern who makes a change in a supervision agreement or enters into a new supervision agreement shall notify the Board within 30 days after the date of the change or new agreement.*

2. Each party to a supervision agreement shall, upon its termination, notify the Board in writing not more than 5 days after the date of termination.

Sec. 10. NRS 641A.010 is hereby amended to read as follows:

641A.010 The practice of marriage and family therapy ~~[is]~~ *and the practice of clinical professional counseling are* hereby declared ~~[a learned profession,]~~ *to be learned professions* profoundly affecting public safety and welfare and charged with the public interest, and therefore subject to protection and regulation by the State.

Sec. 11. NRS 641A.020 is hereby amended to read as follows:

641A.020 As used in this chapter, unless the context otherwise requires, *the* words and terms defined in NRS 641A.030 to 641A.080, inclusive, *and sections 5.5, 6 and 7 of this act* have the meanings ~~[assigned]~~ *ascribed* to them in ~~[such]~~ *those* sections.

Sec. 12. NRS 641A.030 is hereby amended to read as follows:

641A.030 "Board" means the Board of Examiners for Marriage and Family Therapists ~~[.]~~ *and Clinical Professional Counselors.*

Sec. 13. NRS 641A.040 is hereby amended to read as follows:

641A.040 "License" means a license issued by the Board pursuant to this chapter to practice as a marriage and family therapist ~~[.]~~ , ~~*[or to practice as]*~~ *a clinical professional counselor* ~~*[.]*~~ *or a clinical professional counselor intern.*

Sec. 14. NRS 641A.050 is hereby amended to read as follows:

641A.050 "Licensee" means a person licensed as a marriage and family therapist , ~~*[or]*~~ *a clinical professional counselor or a clinical professional counselor intern* by the Board.

Sec. 14.5. NRS 641A.080 is hereby amended to read as follows:

641A.080 1. "Practice of marriage and family therapy" means the ~~[application of established principles of learning, motivation, perception, thinking, emotional, marital and sexual relationships and adjustments by persons trained in psychology, social work, psychiatry or marriage and family therapy. The application of these principles includes:~~

~~(a) Diagnosis, therapy, treatment, counseling and the use of psychotherapeutic measures with persons or groups with adjustment problems in the areas of marriage, family or personal relationships.~~

~~(b) Conducting research concerning problems related to marital relationships and human behavior.~~

~~(c) Consultation with other persons engaged in the practice of marriage and family therapy if the consultation is determined by the Board to include the application of any of these principles.]~~ *diagnosis and treatment of mental and emotional disorders, whether cognitive, affective or behavioral, within the context of interpersonal relationships, including, without limitation, marital and family systems, and involves the professional application or use of psychotherapy, counseling, evaluation, assessment instruments, consultation, treatment planning, supervision, research and prevention of mental and emotional disorders. The term includes, without limitation, the rendering of professional marital and family therapy services to a person, couple, family or family group or other group of persons.*

2. The term does not include:

(a) The diagnosis or treatment of a psychotic disorder; or

(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude, interests or addictions.

Sec. 15. NRS 641A.090 is hereby amended to read as follows:

641A.090 The Board of Examiners for Marriage and Family Therapists ~~[,]~~ *and Clinical Professional Counselors,* consisting of ~~[six]~~ *eight* members appointed by the Governor, is hereby created.

Sec. 15.5. NRS 641A.090 is hereby amended to read as follows:

641A.090 The Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, consisting of ~~[eight]~~ *nine* members appointed by the Governor, is hereby created.

Sec. 16. NRS 641A.100 is hereby amended to read as follows:

641A.100 1. The Governor shall appoint to the Board:

(a) Four members who are licensed marriage and family therapists and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; ~~[and]~~

(b) *Two members who are licensed clinical professional counselors and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; and*

(c) Two members who are representatives of the general public. These members must not be:

(1) A marriage and family therapist; ~~[or]~~

(2) *A clinical professional counselor; or*

(3) The spouse or the parent or child, by blood, marriage or adoption, of a marriage and family therapist ~~[.]~~ *or clinical professional counselor.*

2. The members who are representatives of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

3. The Governor may, after notice and hearing, remove any member of the Board for misconduct in office, incompetence, neglect of duty or other sufficient cause.

Sec. 16.5. NRS 641A.100 is hereby amended to read as follows:

641A.100 1. The Governor shall appoint to the Board:

(a) Four members who are licensed marriage and family therapists and are in good standing with or acceptable for membership in their local or state societies and associations when they exist;

(b) ~~[Two]~~ *Three* members who are licensed clinical professional counselors and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; and

(c) Two members who are representatives of the general public. These members must not be:

(1) A marriage and family therapist;

(2) A clinical professional counselor; or

(3) The spouse or the parent or child, by blood, marriage or adoption, of a marriage and family therapist or clinical professional counselor.

2. The members who are representatives of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

3. The Governor may, after notice and hearing, remove any member of the Board for misconduct in office, incompetence, neglect of duty or other sufficient cause.

Sec. 17. NRS 641A.130 is hereby amended to read as follows:

641A.130 The Board shall meet at least once every 6 months at a time and place fixed by the Board. The Board shall hold a special meeting upon a call of the President or upon a request by a majority of the members. ~~[Three]~~ *Five* members of the Board constitute a quorum.

Sec. 18. NRS 641A.160 is hereby amended to read as follows:

641A.160 The Board shall adopt regulations not inconsistent with the provisions of this chapter governing its procedure, the examination and licensing of applicants, the granting, refusal, revocation or suspension of licenses , and the practice of marriage and family therapy *and the practice of clinical professional counseling* as ~~[it applies]~~ *those practices apply* to this chapter.

Sec. 19. NRS 641A.180 is hereby amended to read as follows:

641A.180 The Board shall:

1. Adopt regulations specifying the criteria for courses of study that are sufficient for the purposes of licensing; and

2. Determine which schools in and out of this State have courses of study for the preparation of marriage and family therapy *and clinical professional counseling* which are sufficient for the purposes of licensing. Published lists of educational institutions accredited by recognized accrediting organizations may be used in the evaluation of ~~[such]~~ *those* courses of study.

Sec. 20. NRS 641A.215 is hereby amended to read as follows:

641A.215 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license ~~[as a marriage and family therapist]~~ shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license ~~[as a marriage and family therapist]~~ shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license ~~[as a marriage and family therapist]~~ may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 21. NRS 641A.215 is hereby amended to read as follows:

641A.215 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license ~~[as a marriage and family therapist]~~ shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license ~~[as a marriage and family therapist]~~ may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 22. NRS 641A.220 is hereby amended to read as follows:

641A.220 Each applicant *for a license to practice as a marriage and family therapist* must furnish evidence satisfactory to the Board that he:

1. Is at least 21 years of age;

2. Is of good moral character;

3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

4. Has completed his residency training in psychiatry from an accredited institution approved by the Board, has a graduate degree in marriage and family therapy, psychology or social work from an accredited institution approved by the Board or has completed other education and training which is deemed equivalent by the Board;

5. Has ~~[at least 1 year]~~ *:*

(a) At least 2 years of postgraduate experience in marriage and family therapy ~~[deemed satisfactory to the Board;]~~ *;* and

(b) At least 3,000 hours of supervised experience in marriage and family therapy, of which at least 1,500 hours must consist of direct contact with clients; and

6. Holds an undergraduate degree from an accredited institution approved by the Board.

Sec. 23. NRS 641A.230 is hereby amended to read as follows:

641A.230 1. Except as otherwise provided in subsection 2, each qualified applicant for a license *to practice as a marriage and family therapist* must ~~[be given]~~ *pass* a written examination *given* by the Board on his knowledge of marriage and family therapy. Examinations must be given at a time and place and under such supervision as the Board may determine. ~~[A grade of 70 percent or *higher* is a passing grade.]~~

2. The Board shall accept receipt of a passing grade by a qualified applicant on the national examination sponsored by the ~~[American]~~ Association ~~[for Marriage]~~ *of Marital* and Family Therapy *Regulatory Boards* in lieu of requiring a written examination pursuant to subsection 1.

3. In addition to the requirements of subsections 1 and 2, the Board may require an oral examination. The Board may examine *applicants* in whatever applied or theoretical fields it deems appropriate.

Sec. 23.5. NRS 641A.235 is hereby amended to read as follows:

641A.235 1. The Board shall issue a license to an applicant who meets the requirements imposed pursuant to this chapter.

2. ~~[A]~~ *Except as otherwise provided in section 8.4 of this act, a* license expires on January 1 of each year.

3. The Board may prorate the fee for a license which expires less than 6 months after the date of issuance.

Sec. 24. NRS 641A.265 is hereby amended to read as follows:

641A.265 The Board may waive all or part of the requirement of continuing education in a particular year if the marriage and family therapist *or clinical professional counselor* was prevented from fulfilling the requirement ~~[by]~~ *because of* circumstances beyond his control.

Sec. 25. NRS 641A.285 is hereby amended to read as follows:

641A.285 1. Upon written request to the Board and payment of the fee prescribed by the Board, a licensee in good standing may have his name and license transferred to an inactive list for a period not to exceed 3 continuous years. A licensee shall not practice marriage and family therapy *or clinical professional counseling* during the time his license is inactive. If an inactive licensee desires to resume the practice of marriage and family therapy ~~[,]~~ *or clinical professional counseling,* the Board must reactivate the license upon the:

(a) Completion of an application for reactivation;

(b) Payment of the fee for renewal of the license; and

(c) Demonstration, if deemed necessary by the Board, that the licensee is then qualified and competent to practice.

➥ Except as otherwise provided in subsection 2, the licensee is not required to pay the delinquency fee or the renewal fee for any year while the license was inactive.

2. Any license that remains inactive for a period which exceeds 3 continuous years is deemed:

(a) To effect a revocation for the purposes of NRS 641A.270.

(b) To have lapsed at the beginning of that period for the purposes of NRS 641A.280.

3. The Board may adopt such regulations as it deems necessary to carry out the provisions of this section, including without limitation, regulations governing the renewal of inactive licenses and any requirement of continuing education for inactive licensees.

Sec. 26. NRS 641A.310 is hereby amended to read as follows:

641A.310 The Board may refuse to grant a license or may suspend or revoke a license for any of the following reasons:

1. Conviction of a felony relating to the practice of marriage and family therapy *or clinical professional counseling* or of any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.

2. Habitual drunkenness or addiction to the use of a controlled substance.

3. Impersonating a licensed marriage and family therapist*, ~~[or]~~ a clinical professional counselor or a clinical professional counselor intern* or allowing another person to use his license.

4. Using fraud or deception in applying for a license or in passing the examination provided for in this chapter.

5. Rendering or offering to render services outside the area of his training, experience or competence.

6. Committing unethical practices contrary to the interest of the public as determined by the Board.

7. Unprofessional conduct as determined by the Board.

8. Negligence, fraud or deception in connection with services he is licensed to provide pursuant to this chapter.

Sec. 27. NRS 641A.313 is hereby amended to read as follows:

641A.313 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license , ~~[as a marriage and family therapist,]~~ the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license ~~[as a marriage and family therapist]~~ that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 28. NRS 641A.315 is hereby amended to read as follows:

641A.315 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any marriage and family therapist , ~~[or]~~ *clinical professional counselor or clinical professional counselor intern* has raised a reasonable question as to his competence to practice therapy *or clinical professional counseling* with reasonable skill and safety, it may order the marriage and family therapist , ~~[or]~~ *clinical professional counselor or clinical professional counselor intern* to undergo:

(a) A mental or physical examination administered by an appropriately licensed provider of health care;

(b) An examination testing his competence to practice therapy ~~[.]~~ *or clinical professional counseling;* or

(c) Any other examination designated by the Board,

➥ to assist the Board or committee in determining the fitness of the marriage and family therapist to practice therapy ~~[.]~~ *or the clinical professional counselor or clinical professional counselor intern to practice clinical professional counseling.*

2. For the purposes of this section:

(a) Every *marriage and family* therapist*__, ~~[or]~~ clinical professional counselor* *or clinical professional counselor intern* who applies for a license or who is licensed pursuant to this chapter is deemed to have given his consent to submit to any examination ordered pursuant to subsection 1 when ordered to do so in writing by the Board.

(b) The testimony and reports of the examining provider of health care are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a *marriage and family* therapist*__, ~~[or]~~ clinical professional counselor* *or clinical professional counselor intern* licensed pursuant to this chapter to submit to an examination when ordered to do so as provided in this section constitutes an admission of the charges against him.

4. The Board may require the marriage and family therapist*__, ~~[or]~~ clinical professional counselor* *or clinical professional counselor intern* to pay the cost of the examination.

Sec. 29. NRS 641A.410 is hereby amended to read as follows:

641A.410 1. It is unlawful for any person to engage in the practice of marriage and family therapy *or the practice of clinical professional counseling* unless he is licensed under the provisions of this chapter.

2. The provisions of this chapter do not:

(a) Prevent any licensed physician, licensed nurse, licensed psychologist, certified alcohol or drug abuse counselor or other person licensed or certified by the State from carrying out the functions permitted by his respective license or certification if the person does not hold himself out to the public by any title and description of service likely to cause confusion with the titles and descriptions of service set forth in this chapter.

(b) Apply to any activity or service of a student who is obtaining a professional education as recognized by the Board if the activity or service constitutes a part of the student's supervised course of study, the activities are supervised by a licensee under this chapter and the student is designated by the title "intern in marriage and family therapy" *~~[or intern in clinical professional counseling"]~~* or any other title which clearly indicates his status as a student.

(c) Apply to any activity or service of an intern while he is obtaining the experience required for licensing as a marriage and family therapist ~~[.]~~ *or a clinical professional counselor*.

(d) Apply to a licensed or ordained minister in good standing with his denomination whose duty is primarily to serve his congregation and whose practice of marriage and family therapy *or clinical professional counseling* is incidental to his other duties if he does not hold himself out to the public by any title or description of service that is likely to cause confusion with the titles and descriptions or services set forth in this chapter.

Sec. 30. NRS 641A.430 is hereby amended to read as follows:

641A.430 It is unlawful for any person, other than a person licensed under this chapter, to employ or use the term "marriage and family

counselor," "marriage and family therapist," "marital adviser," "marital therapist," ~~[or]~~ "marital consultant," *"clinical professional ~~[counselor"]~~ counselor," "clinical professional counselor intern"* or any similar title in connection with his work, or in any way imply that he is licensed by the Board, unless he is licensed under this chapter.

Sec. 31. NRS 641A.440 is hereby amended to read as follows:

641A.440 Any person who violates any of the provisions of this chapter or, having had his license suspended or revoked, continues to represent himself as a marriage and family therapist , ~~[or a]~~ *clinical professional counselor or clinical professional counselor intern* shall be punished by imprisonment in the county jail for not more than 1 year or by a fine of not more than $5,000, or by both fine and imprisonment. Each violation is a separate offense.

Sec. 32. NRS 641A.450 is hereby amended to read as follows:

641A.450 A violation of this chapter by a person unlawfully representing himself as a marriage and family therapist , ~~[or a]~~ *clinical professional counselor or clinical professional counselor intern* may be enjoined by a district court on petition by the Board. In any such proceeding it is not necessary to show that any person is individually injured. If the respondent is found guilty of misrepresenting himself as a marriage and family therapist , ~~[or a]~~ *clinical professional counselor ~~[,]~~ or clinical professional counselor intern*, the court shall enjoin him from making such a representation until he has been licensed. Procedure in ~~[such]~~ *those* cases is the same as in any other application for an injunction. The remedy by injunction is in addition to criminal prosecution and punishment.

Sec. 33. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;

2. A nurse who is licensed to practice in this State;

3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS;

4. A person who is licensed as a marriage and family therapist pursuant to chapter 641A of NRS;

5. *A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;*

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

~~[6.]~~ *7.* A person who is licensed *as a clinical alcohol and drug abuse counselor, licensed* or certified as an alcohol and drug abuse counselor , or certified as *a clinical alcohol and drug abuse counselor intern,* an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern , pursuant to chapter 641C of NRS;

~~[7.]~~ *8.* Any clergyman;

~~[8.]~~ *9.* A county welfare director;

~~[9.]~~ *10.* Any person who may engage in social work or clinical social work in his regular governmental employment but does not hold himself out to the public as a social worker; or

~~[10.]~~ *11.* A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by the title "student of social work" or "trainee in social work," or any other title which clearly indicates his training status.

Sec. 34. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[31 to 33, inclusive,]~~ 35 to 38, inclusive, of this act.

Sec. 35. *1. "Clinical practice of counseling alcohol and drug abusers" means:*

(a) The application of counseling to reduce or eliminate the habitual use of alcohol or other drugs, other than any maintenance dosage of a narcotic or habit-forming drug administered pursuant to chapter 453 of NRS; and

(b) The identification, evaluation, diagnosis and treatment of a mentally ill person who is an alcoholic or abuser of drugs.

2. The term does not include:

(a) The diagnosis or treatment of a psychotic disorder; or

(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude, interests or addictions.

Sec. 36. *1. The Board shall issue a license as a clinical alcohol and drug abuse counselor to:*

~~*[1.]*~~ *(a) A person who:*

~~*[(a)]*~~ *(1) Is not less than 21 years of age;*

~~*[(b)]*~~ *(2) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;*

~~*[(c)]*~~ *(3) Has received a master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board that includes comprehensive coursework in clinical mental health, including the diagnosis of mental health disorders;*

~~*[(d)]*~~ *(4) Has completed a program approved by the Board consisting of at least 2,000 hours of supervised, postgraduate counseling of alcohol and drug abusers;*

~~*[(e)]*~~ *(5) Has completed a program that:*

~~*[(1)]*~~ *(I) Is approved by the Board; and*

~~*[(2)]*~~ *(II) Consists of at least 2,000 hours of postgraduate counseling of persons who are mentally ill and who are alcohol and drug abusers that is supervised by a clinical alcohol and drug abuse counselor who is a person professionally qualified in the field of psychiatric mental health and who is approved by the Board;*

~~[(f)]~~ (6) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

~~[(g)]~~ (7) Pays the fees required pursuant to NRS 641C.470; and

~~[(h)]~~ (8) Submits all information required to complete an application for a license.

~~[2.]~~ (b) A person who:

~~[(a)]~~ (1) Is not less than 21 years of age;

~~[(b)]~~ (2) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

~~[(c)]~~ (3) Is:

~~[(1)]~~ (I) Licensed as a clinical social worker pursuant to chapter 641B of NRS;

~~[(2)]~~ (II) Licensed as a marriage and family therapist pursuant to chapter 641A of NRS; or

~~[(3)]~~ (III) A nurse who is licensed pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university;

~~[(d)]~~ (4) Has completed at least 6 months of supervised counseling of alcohol and drug abusers approved by the Board;

~~[(e)]~~ (5) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

~~[(f)]~~ (6) Pays the fees required pursuant to NRS 641C.470; and

~~[(g)]~~ (7) Submits all the information required to complete an application for a license.

~~[3.]~~ 2. As used in this section, "person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433.209.

Sec. 37. 1. The Board shall issue a certificate as a clinical alcohol and drug abuse counselor intern to a person who:

(a) Is not less than 21 years of age;

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

(c) Pays the fees required pursuant to NRS 641C.470;

(d) Submits proof to the Board that he has received a master's degree or doctoral degree in a field of social science approved by the Board that includes comprehensive coursework in clinical mental health, including the diagnosis of mental health disorders; and

(e) Submits all the information required to complete an application for a certificate.

2. A certificate as a clinical alcohol and drug abuse counselor intern is valid for 1 year and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified clinical alcohol and drug abuse counselor intern may, under the supervision of a licensed clinical alcohol and drug abuse counselor:

(a) Engage in the clinical practice of counseling alcohol and drug abusers ; ~~*[who are mentally ill;]*~~ *and*

(b) Diagnose or classify a person as an alcoholic or drug abuser.

Sec. 38. *1. A license as a clinical alcohol and drug abuse counselor is valid for 1 year and may be renewed.*

2. A licensed clinical alcohol and drug abuse counselor may:

(a) Engage in the clinical practice of counseling alcohol and drug abusers;

(b) Diagnose or classify a person as an alcoholic or abuser of drugs; and

(c) Supervise certified interns.

Sec. 39. NRS 641C.010 is hereby amended to read as follows:

641C.010 The practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* and the practice of counseling problem gamblers are hereby declared to be learned professions affecting public health, safety and welfare and are subject to regulation to protect the public from the practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* and the practice of counseling problem gamblers by unqualified persons and from unprofessional conduct by persons who are licensed or certified to engage in the practice of counseling alcohol and drug abusers , *licensed* <u>*or certified*</u> *to engage in the clinical practice of counseling alcohol and drug abusers* or certified to engage in the practice of counseling problem gamblers.

Sec. 40. NRS 641C.020 is hereby amended to read as follows:

641C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641C.030 to 641C.110, inclusive, *and section 35 of this act,* have the meanings ascribed to them in those sections.

Sec. 41. NRS 641C.040 is hereby amended to read as follows:

641C.040 "Certificate" means a certificate issued to a person who is certified as an alcohol and drug abuse counselor, *a clinical alcohol and drug abuse counselor intern,* an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern.

Sec. 42. NRS 641C.060 is hereby amended to read as follows:

641C.060 "Certified intern" means a person who is certified as *a clinical alcohol and drug abuse counselor intern,* an alcohol and drug abuse counselor intern or a problem gambling counselor intern pursuant to the provisions of this chapter.

Sec. 43. NRS 641C.080 is hereby amended to read as follows:

641C.080 "License" means a license issued to a person who is licensed as an alcohol and drug abuse counselor *or a clinical alcohol and drug abuse counselor* pursuant to the provisions of this chapter.

Sec. 44. NRS 641C.090 is hereby amended to read as follows:

641C.090 "Licensed counselor" means a person who is licensed as an alcohol and drug abuse counselor *or a clinical alcohol and drug abuse counselor* pursuant to the provisions of this chapter.

Sec. 45. (Deleted by amendment.)

Sec. 46. NRS 641C.130 is hereby amended to read as follows:

641C.130 The provisions of this chapter do not apply to:

1. A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS;

2. A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;

3. A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS;

4. *A clinical professional counselor* *or clinical professional counselor intern* *who is licensed pursuant to chapter 641A of NRS;*

5. A marriage and family therapist who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists *and Clinical Professional Counselors* to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers; or

~~[5.]~~ *6.* A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers.

Sec. 47. NRS 641C.150 is hereby amended to read as follows:

641C.150 1. The Board of Examiners for Alcohol, Drug and Gambling Counselors, consisting of seven members appointed by the Governor, is hereby created.

2. The Board must consist of:

(a) Three members who are licensed as *clinical alcohol and drug abuse counselors or* alcohol and drug abuse counselors pursuant to the provisions of this chapter.

(b) One member who is certified as an alcohol and drug abuse counselor pursuant to the provisions of this chapter.

(c) Two members who are licensed pursuant to chapter 630, 632, 641, 641A or 641B of NRS and certified as problem gambling counselors pursuant to the provisions of this chapter.

(d) One member who is a representative of the general public. This member must not be:

(1) A licensed *clinical alcohol and drug abuse counselor or a licensed* or certified alcohol and drug abuse counselor or problem gambling counselor; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed *clinical alcohol and drug abuse counselor or a licensed* or certified alcohol and drug abuse counselor or problem gambling counselor.

3. A person may not be appointed to the Board unless he is:

(a) A citizen of the United States or is lawfully entitled to remain and work in the United States; and

(b) A resident of this State.

4. No member of the Board may be held liable in a civil action for any act that he performs in good faith in the execution of his duties pursuant to the provisions of this chapter.

Sec. 48. NRS 641C.220 is hereby amended to read as follows:

641C.220 The Board may enter into an interlocal agreement with an Indian tribe to provide to members of the tribe training in the practice of counseling alcohol and drug abusers *or the clinical practice of counseling alcohol and drug abusers* to assist those persons in obtaining licenses and certificates as alcohol and drug abuse counselors ~~[.]~~ *and licenses as clinical alcohol and drug abuse counselors.*

Sec. 49. NRS 641C.290 is hereby amended to read as follows:

641C.290 1. *Each applicant for a license as a clinical alcohol and drug abuse counselor must pass a written and oral examination concerning his knowledge of the clinical practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.*

2. Each applicant for a certificate as an alcohol and drug abuse counselor must pass a written and oral examination concerning his knowledge of the practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

~~[2.]~~ *3.* Each applicant for a certificate as a problem gambling counselor must pass a written examination concerning his knowledge of the practice of counseling problem gamblers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

~~[3.]~~ *4.* The Board shall:

(a) Examine applicants at least two times each year.

(b) Establish the time and place for the examinations.

(c) Provide such books and forms as may be necessary to conduct the examinations.

(d) Establish, by regulation, the requirements for passing the examination.

~~[4.]~~ *5.* The Board may employ other persons to conduct the examinations.

Sec. 50. NRS 641C.300 is hereby amended to read as follows:

641C.300 The Board shall issue a license or certificate without examination to a person who holds a license or certificate as ~~[an]~~ *a clinical alcohol and drug abuse counselor or an* alcohol and drug abuse counselor in

another state, a territory or possession of the United States or the District of Columbia if the requirements of that jurisdiction at the time the license or certificate was issued are deemed by the Board to be substantially equivalent to the requirements set forth in the provisions of this chapter.

Sec. 51. NRS 641C.310 is hereby amended to read as follows:

641C.310 1. The Board may hold hearings and conduct investigations concerning any matter related to an application for a license or certificate. In the hearings and investigations, the Board may require the presentation of evidence.

2. The Board may refuse to issue a license or certificate to an applicant if the Board determines that the applicant:

(a) Is not of good moral character as it relates to the practice of counseling alcohol and drug abusers ~~[,]~~ *or the clinical practice of counseling alcohol and drug abusers;*

(b) Has submitted a false credential to the Board;

(c) Has been disciplined in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers ~~[,]~~ *or the clinical practice of counseling alcohol and drug abusers;*

(d) Has committed an act in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers *or the clinical practice of counseling alcohol and drug abusers* that would be a violation of the provisions of this chapter if the act were committed in this State; or

(e) Has failed to comply with any of the requirements for a license or certificate.

Sec. 52. NRS 641C.320 is hereby amended to read as follows:

641C.320 1. The Board may issue ~~[a]~~ *:*

(a) A provisional license *as a clinical alcohol and drug abuse counselor to a person who has applied to the Board to take the examination for a license as a clinical alcohol and drug abuse counselor and is otherwise eligible for that license pursuant to section 36 of this act;* or

(b) A provisional license or certificate as an alcohol and drug abuse counselor to a person who has applied to the Board to take the examination for a license or certificate as an alcohol and drug abuse counselor and is otherwise eligible for that license or certificate pursuant to NRS 641C.350 or 641C.390.

2. A provisional license or certificate is valid for not more than 1 year and may not be renewed.

Sec. 53. NRS 641C.350 is hereby amended to read as follows:

641C.350 The Board shall issue a license as an alcohol and drug abuse counselor to:

1. A person who:

(a) Is not less than 21 years of age;

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

(c) Has received a master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;

(d) Has completed 4,000 hours of supervised counseling of alcohol and drug abusers;

(e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

(f) Pays the fees required pursuant to NRS 641C.470; and

(g) Submits all information required to complete an application for a license.

2. A person who:

(a) Is not less than 21 years of age;

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

(c) Is:

(1) Licensed as a clinical social worker pursuant to chapter 641B of NRS;

(2) *Licensed as a clinical professional counselor pursuant to chapter 641A of NRS;*

(3) Licensed as a marriage and family therapist pursuant to chapter 641A of NRS; ~~[or~~

~~(3)]~~ *(4)* A nurse who is licensed pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university; *or*

(5) Licensed as a clinical alcohol and drug abuse counselor pursuant to this chapter;

(d) Has completed at least 6 months of supervised counseling of alcohol and drug abusers approved by the Board;

(e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

(f) Pays the fees required pursuant to NRS 641C.470; and

(g) Submits all information required to complete an application for a license.

Sec. 54. NRS 641C.360 is hereby amended to read as follows:

641C.360 1. A license as an alcohol and drug abuse counselor is valid for 2 years and may be renewed.

2. A licensed *alcohol and drug abuse* counselor may:

(a) Engage in the practice of counseling alcohol and drug abusers;

(b) Diagnose or classify a person as an alcoholic or abuser of drugs; and

(c) Supervise certified *alcohol and drug abuse counselor* interns.

3. A licensed alcohol and drug abuse counselor may not identify, evaluate, diagnose or treat a mentally ill person who is an alcoholic or abuser of drugs.

Sec. 55. NRS 641C.420 is hereby amended to read as follows:

641C.420 1. The Board shall issue a certificate as an alcohol and drug abuse counselor intern to a person who:

(a) Is not less than 21 years of age;

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

(c) Has a high school diploma or a general equivalency diploma;

(d) Pays the fees required pursuant to NRS 641C.470;

(e) Submits proof to the Board that he:

(1) Is enrolled in a program from which he will receive an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; or

(2) Has received an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; and

(f) Submits all information required to complete an application for a certificate.

2. A certificate as an alcohol and drug abuse counselor intern is valid for 1 year and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified *alcohol and drug abuse counselor* intern may, under the supervision of a licensed *alcohol and drug abuse* counselor ~~[.]~~ *or licensed clinical alcohol and drug abuse counselor:*

(a) Engage in the practice of counseling alcohol and drug abusers; and

(b) Diagnose or classify a person as an alcoholic or drug abuser.

Sec. 56. NRS 641C.430 is hereby amended to read as follows:

641C.430 The Board may issue a certificate as a problem gambling counselor to:

1. A person who:

(a) Is not less than 21 years of age;

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

(c) Has received a bachelor's degree, master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;

(d) Has completed not less than 60 hours of training specific to problem gambling approved by the Board;

(e) Has completed at least 2,000 hours of supervised counseling of problem gamblers in a setting approved by the Board;

(f) Passes the written examination prescribed by the Board pursuant to NRS 641C.290;

(g) Presents himself when scheduled for an interview at a meeting of the Board;

(h) Pays the fees required pursuant to NRS 641C.470; and

(i) Submits all information required to complete an application for a certificate.

2. A person who:

(a) Is not less than 21 years of age;

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

(c) Is licensed as:

(1) A clinical social worker pursuant to chapter 641B of NRS;

(2) *A clinical professional counselor pursuant to chapter 641A of NRS;*

(3) A marriage and family therapist pursuant to chapter 641A of NRS;

~~[(3)]~~ *(4)* A physician pursuant to chapter 630 of NRS;

~~[(4)]~~ *(5)* A nurse pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university;

~~[(5)]~~ *(6)* A psychologist pursuant to chapter 641 of NRS; ~~[or~~

~~(6)]~~ *(7)* An alcohol and drug abuse counselor pursuant to this chapter; *or*

(8) A clinical alcohol and drug abuse counselor pursuant to this chapter;

(d) Has completed not less than 60 hours of training specific to problem gambling approved by the Board;

(e) Has completed at least 1,000 hours of supervised counseling of problem gamblers in a setting approved by the Board;

(f) Passes the written examination prescribed by the Board pursuant to NRS 641C.290;

(g) Pays the fees required pursuant to NRS 641C.470; and

(h) Submits all information required to complete an application for a certificate.

Sec. 57. NRS 641C.470 is hereby amended to read as follows:

641C.470 1. The Board shall charge and collect not more than the following fees:

For the initial application for a license or certificate	$150
For the issuance of a provisional license or certificate	125
For the issuance of an initial license or certificate	60
For the renewal of a license or certificate as an alcohol and drug abuse counselor *, a license as a clinical alcohol and drug abuse counselor* or a certificate as a problem gambling counselor	300
For the renewal of a certificate as *a clinical alcohol and drug abuse counselor intern,* an alcohol and drug abuse counselor intern or a problem gambling counselor intern	75
For the renewal of a delinquent license or certificate	75
For the restoration of an expired license or certificate	150
For the restoration or reinstatement of a suspended or revoked license or certificate	300

For the issuance of a license or certificate without examination 150
For an examination 150
For the approval of a course of continuing education 150

2. The fees charged and collected pursuant to this section are not refundable.

Sec. 58. NRS 641C.700 is hereby amended to read as follows:

641C.700 The grounds for initiating disciplinary action pursuant to the provisions of this chapter include:

1. Conviction of:

(a) A felony relating to the practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers;

(b) An offense involving moral turpitude; or

(c) A violation of a federal or state law regulating the possession, distribution or use of a controlled substance or dangerous drug as defined in chapter 453 of NRS;

2. Fraud or deception in:

(a) Applying for a license or certificate;

(b) Taking an examination for a license or certificate;

(c) Documenting the continuing education required to renew or reinstate a license or certificate;

(d) Submitting a claim for payment to an insurer; or

(e) The practice of counseling alcohol and drug abusers ~~[,]~~ *or the clinical practice of counseling alcohol and drug abusers;*

3. Allowing the unauthorized use of a license or certificate issued pursuant to this chapter;

4. Professional incompetence;

5. The habitual use of alcohol or any other drug that impairs the ability of a licensed or certified counselor or certified intern to engage in the practice of counseling alcohol and drug abusers ~~[,]~~ *or the clinical practice of counseling alcohol and drug abusers;*

6. Engaging in the practice of counseling alcohol and drug abusers *or the clinical practice of counseling alcohol and drug abusers* with an expired, suspended or revoked license or certificate; and

7. Engaging in behavior that is contrary to the ethical standards as set forth in the regulations of the Board.

Sec. 59. NRS 641C.720 is hereby amended to read as follows:

641C.720 1. The Board or any of its members who become aware of any ground for initiating disciplinary action against a person engaging in the practice of counseling alcohol and drug abusers *or the clinical practice of counseling alcohol and drug abusers* in this State shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board. The complaint must specifically charge one or more of the grounds for initiating disciplinary action.

2. If, after notice and a hearing as required by law, the Board determines that a licensed or certified counselor or certified intern has violated a provision of this chapter or any regulation adopted pursuant to this chapter, it may:

(a) Administer a public reprimand;

(b) Suspend his license or certificate and impose conditions for the removal of the suspension;

(c) Revoke his license or certificate and prescribe the requirements for the reinstatement of the license or certificate;

(d) If he is a licensed or certified counselor, require him to be supervised by another person while he engages in the practice of counseling alcohol and drug abusers ~~[,]~~ *or the clinical practice of counseling alcohol and drug abusers;*

(e) Require him to participate in treatment or counseling and pay the expenses of that treatment or counseling;

(f) Require him to pay restitution to any person adversely affected by his acts or omissions;

(g) Impose a fine of not more than $5,000; or

(h) Take any combination of the actions authorized by paragraphs (a) to (g), inclusive.

3. If his license or certificate is revoked or suspended pursuant to subsection 2, the licensed or certified counselor or certified intern may apply to the Board for reinstatement of the suspended license or certificate or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of his revoked license or certificate. The Board may accept or reject the application and may require the successful completion of an examination as a condition of reinstatement of the license or certificate.

4. The Board shall not administer a private reprimand.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 60. NRS 641C.900 is hereby amended to read as follows:

641C.900 1. Except as otherwise provided in subsection 2, a person shall not engage in the practice of counseling alcohol and drug abusers *, the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers unless he is a licensed counselor, certified counselor or certified intern.

2. A person may engage in the practice of counseling alcohol and drug abusers under the supervision of a licensed counselor *, the clinical practice of counseling alcohol and drug abusers under the supervision of a clinical alcohol and drug abuse counselor* or the practice of counseling problem gamblers under the supervision of a certified counselor for not more than 30 days if that person:

(a) Is qualified to be licensed or certified pursuant to the provisions of this chapter; and

(b) Submits an application to the Board for a license or certificate pursuant to the provisions of this chapter.

Sec. 61. NRS 641C.910 is hereby amended to read as follows:

641C.910 1. A person shall not:

(a) Hold himself out to a member of the general public as *a clinical alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern,* an alcohol and drug abuse counselor, *an* alcohol and drug abuse counselor intern, *a* problem gambling counselor or *a* problem gambling counselor intern;

(b) Use the title *"clinical alcohol and drug abuse counselor," "clinical alcohol and drug abuse counselor intern,"* "alcohol and drug abuse counselor," "alcohol and drug abuse counselor intern," "drug abuse counselor," "substance abuse counselor," "problem gambling counselor," "problem gambling counselor intern," "gambling counselor," "detoxification technician" or any similar title in connection with his work; or

(c) Imply in any way that he is licensed or certified by the Board,

➥ unless he is licensed or certified by the Board pursuant to the provisions of this chapter or a regulation adopted pursuant to NRS 641C.500.

2. If the Board believes that any person has violated or is about to violate any provision of this chapter or a regulation adopted pursuant thereto, it may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not prevent the criminal prosecution and punishment of a person who violates a provision of this chapter or a regulation adopted pursuant thereto.

Sec. 62. Chapter 49 of NRS is hereby amended by adding thereto the provisions set forth as sections 63 to 66, inclusive, of this act.

Sec. 63. *As used in sections 63 to 66, inclusive, of this act, unless the context otherwise requires:*

1. "Client" means a person who consults or is interviewed by a clinical professional counselor for the purpose of diagnosis or treatment.

2. "Clinical professional counselor" has the meaning ascribed to it in section 6 of this act ~~[.]~~ *and includes a clinical professional counselor intern.*

3. A communication is "confidential" if it is not intended to be disclosed to any third person other than a person:

(a) Present during the consultation or interview to further the interest of the client;

(b) Reasonably necessary for the transmission of the communication; or

(c) Participating in the diagnosis or treatment under the direction of the clinical professional counselor, including a member of the client's family.

Sec. 64. *A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications among himself, his clinical professional counselor or any other person who is participating*

in the diagnosis or treatment under the direction of the clinical professional counselor.

Sec. 65. *1. The privilege may be claimed by the client, by his guardian or conservator, or by the personal representative of a deceased client.*

2. The person who was the clinical professional counselor may claim the privilege but only on behalf of the client. The authority of the clinical professional counselor to do so is presumed in the absence of evidence to the contrary.

Sec. 66. *There is no privilege under section 64 or 65 of this act:*

1. If the client communicates to the clinical professional counselor that he intends or plans to commit what the client knows or reasonably should know is a crime.

2. If the clinical professional counselor is required to testify in an administrative or court-related investigation or proceeding involving the welfare of his client or the minor children of his client.

3. For communications relevant to an issue in proceedings to hospitalize the ~~[patient]~~ client for mental illness, if the clinical professional counselor in the course of diagnosis or treatment has determined that the client is in need of hospitalization.

4. As to communications relevant to an issue of the treatment of the client in any proceeding in which the treatment is an element of a claim or defense.

Sec. 67. NRS 62A.270 is hereby amended to read as follows:

62A.270 "Qualified professional" means:

1. A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

2. A psychologist licensed to practice in this State;

3. A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

4. A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State; ~~[or]~~

5. A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS ~~[.]~~ *; or*

6. *A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.*

Sec. 68. NRS 62E.620 is hereby amended to read as follows:

62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:

(a) An unlawful act in violation of NRS 484.379, 484.3795 or 484.37955;

(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or

(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.

2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:

(a) ~~[An]~~ *A clinical alcohol and drug abuse counselor who is licensed, an* alcohol and drug abuse counselor who is licensed or certified , or an alcohol and drug abuse counselor intern *or a clinical alcohol and drug abuse counselor intern* who is certified , pursuant to chapter 641C of NRS , to make that classification; or

(b) A physician who is certified to make that classification by the Board of Medical Examiners.

3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:

(a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;

(b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and

(c) Is in good standing with the regulatory agency in the other state.

4. The evaluation of the child may be conducted at an evaluation center.

5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.

6. The juvenile court shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:

(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and

(2) The juvenile court may order the child, in lieu of paying the charges relating to his evaluation and treatment, to perform community service.

7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.

8. The provisions of this section do not prohibit the juvenile court from:

(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Health Division of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.

(b) Ordering the child to attend a program of treatment which is administered by a private company.

9. All information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:

(a) The juvenile court;

(b) The child;

(c) The attorney for the child, if any;

(d) The parents or guardian of the child;

(e) The district attorney; and

(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.

10. A record of any finding that a child has violated the provisions of NRS 484.379, 484.3795 or 484.37955 must be included in the driver's record of that child for 7 years after the date of the offense.

Sec. 69. NRS 89.050 is hereby amended to read as follows:

89.050 1. Except as otherwise provided in subsection 2, a professional corporation may be organized only for the purpose of rendering one specific type of professional service and may not engage in any business other than rendering the professional service for which it was organized and services reasonably related thereto, except that a professional corporation may own real and personal property appropriate to its business and may invest its money in any form of real property, securities or any other type of investment.

2. A professional corporation may be organized to render a professional service relating to:

(a) Architecture, interior design, residential design, engineering and landscape architecture, or any combination thereof, and may be composed of persons:

(1) Engaged in the practice of architecture as provided in chapter 623 of NRS;

(2) Practicing as a registered interior designer as provided in chapter 623 of NRS;

(3) Engaged in the practice of residential design as provided in chapter 623 of NRS;

(4) Engaged in the practice of landscape architecture as provided in chapter 623A of NRS; and

(5) Engaged in the practice of professional engineering as provided in chapter 625 of NRS.

(b) Medicine, homeopathy and osteopathy, and may be composed of persons engaged in the practice of medicine as provided in chapter 630 of NRS, persons engaged in the practice of homeopathic medicine as provided in chapter 630A of NRS and persons engaged in the practice of osteopathic medicine as provided in chapter 633 of NRS. Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to medicine, homeopathy and osteopathy.

(c) Mental health services, and may be composed of the following persons, in any number and in any combination:

(1) Any psychologist who is licensed to practice in this State;

(2) Any social worker who holds a master's degree in social work and who is licensed by this State as a clinical social worker;

(3) Any registered nurse who is licensed to practice professional nursing in this State and who holds a master's degree in the field of psychiatric nursing; ~~[and]~~

(4) Any marriage and family therapist who is licensed by this State pursuant to chapter 641A of NRS ~~[.]~~ *; and*

(5) Any clinical professional counselor who is licensed by this State pursuant to chapter 641A of NRS.

➥ Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to mental health services pursuant to this paragraph.

3. A professional corporation may render a professional service only through its officers and employees who are licensed or otherwise authorized by law to render the professional service.

Sec. 70. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State; ~~[or]~~

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS ~~[.]~~ *; or*

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

(j) Lewdness with a child pursuant to NRS 201.230;

(k) Sexual penetration of a dead human body pursuant to NRS 201.450;

(l) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 71. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a physician assistant, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, an osteopathic physician's assistant, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist ~~[and]~~ *, a clinical professional counselor , a clinical professional counselor intern and* an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) ~~[of this subsection]~~ does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) ~~[of this subsection]~~ does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a

sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 72. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor, clinical alcohol and drug abuse counselor,* alcohol ~~[or]~~ *and* drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this

State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney and the Aging Services Division of the Department of Health and Human Services his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 73. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, *clinical alcohol and drug abuse counselor*, alcohol ~~[or]~~ *and* drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 74. NRS 209.448 is hereby amended to read as follows:

209.448 1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than 30 days from the maximum term of his sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed *as a clinical alcohol and drug abuse counselor, licensed* or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern *or a clinical alcohol and drug abuse counselor intern,* pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

Sec. 75. NRS 211.340 is hereby amended to read as follows:

211.340 1. In addition to the credits on a term of imprisonment provided for in NRS 211.310, 211.320 and 211.330, the sheriff of the county or the chief of police of the municipality in which a prisoner is incarcerated may deduct not more than 5 days from his term of imprisonment if the prisoner:

(a) Successfully completes a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the local detention facility in which he is incarcerated and a person who is licensed *as a clinical alcohol and drug abuse counselor, licensed* or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern *or a clinical alcohol and drug abuse counselor intern,* pursuant to chapter 641C of NRS; and

(b) Is awarded a certificate evidencing his successful completion of the program.

2. The provisions of this section apply to any prisoner who is sentenced on or after October 1, 1991, to a term of imprisonment of 90 days or more.

Sec. 76. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged and disabled persons established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, *licensed clinical professional counselor*, chiropractor or doctor of Oriental medicine in any form.

Sec. 77. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged and disabled persons established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, *licensed clinical professional counselor,* chiropractor or doctor of Oriental medicine in any form.

Sec. 78. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides

child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, *clinical alcohol and drug abuse counselor*, alcohol ~~[or]~~ *and* drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report

this belief to the appropriate medical examiner or coroner, who shall investigate the report and submit to an agency which provides child welfare services his written findings. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 79. NRS 433.209 is hereby amended to read as follows:

433.209 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in the State of Nevada and certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;

3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;

4. A registered nurse who:

(a) Is licensed to practice professional nursing in this State;

(b) Holds a master's degree in the field of psychiatric nursing; and

(c) Is employed by the Division ~~[.]~~ *;*

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS *; or*

6. A clinical professional counselor licensed pursuant to chapter 641A of NRS.

Sec. 80. NRS 433.265 is hereby amended to read as follows:

433.265 Any person employed by the Division as a psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, registered nurse or social worker must be licensed or certified by the appropriate state licensing board for his respective profession.

Sec. 81. NRS 433A.018 is hereby amended to read as follows:

433A.018 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in this State who is certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;

3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;

4. A registered nurse who:

(a) Is licensed to practice professional nursing in this State;

(b) Holds a master's degree in the field of psychiatric nursing; and

(c) Is employed by the Division; ~~[or]~~

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS *; or*

6. A clinical professional counselor licensed pursuant to chapter 641A of NRS.

Sec. 82. NRS 433A.160 is hereby amended to read as follows:

433A.160 1. Except as otherwise provided in subsection 2, an application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may only be made by an accredited agent of the Department, an officer authorized to make arrests in the State of Nevada or a physician, psychologist, marriage and family therapist, *clinical professional counselor,* social worker or registered nurse. The agent, officer, physician, psychologist, marriage and family therapist, *clinical professional counselor,* social worker or registered nurse may:

(a) Without a warrant:

(1) Take an allegedly mentally ill person into custody to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose, or arrange for the person to be transported by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority;

(III) An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421; or

(IV) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➥ only if the agent, officer, physician, psychologist, marriage and family therapist, *clinical professional counselor,* social worker or registered nurse has, based upon his personal observation of the allegedly mentally ill person, probable cause to believe that the person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

(b) Apply to a district court for an order requiring:

(1) Any peace officer to take an allegedly mentally ill person into custody to allow the applicant for the order to apply for the emergency admission of the allegedly mentally ill person for evaluation, observation and treatment; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose.

➥ The district court may issue such an order only if it is satisfied that there is probable cause to believe that the allegedly mentally ill person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

2. An application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the allegedly mentally ill person may apply to a district court for an order described in paragraph (b) of subsection 1.

3. The application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.

4. ~~[As used in subsection 1, "an accredited agent of the Department" means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.~~

~~5.]~~ Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

5. As used in this section, "an accredited agent of the Department" means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.

Sec. 83. NRS 433B.090 is hereby amended to read as follows:

433B.090 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;

3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;

4. A registered nurse who:

(a) Is licensed to practice professional nursing in this State;

(b) Holds a master's degree in the field of psychiatric nursing; and

(c) Is employed by the Division or the Division of Mental Health and Developmental Services of the Department; ~~[or]~~

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS *; or*

6. A clinical professional counselor licensed pursuant to chapter 641A of NRS.

Sec. 84. NRS 433B.160 is hereby amended to read as follows:

433B.160 1. A person employed by the Division as a psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor,* registered nurse or social worker must be licensed or certified by the appropriate state licensing board for his respective profession.

2. Any psychiatrist who is employed by the Division must be certified by the American Board of Psychiatry and Neurology within 5 years after his first date of employment with the Division. The Administrator shall

terminate the employment of any psychiatrist who fails to receive that certification.

Sec. 85. NRS 433B.170 is hereby amended to read as follows:

433B.170 The Administrator shall not employ any psychiatrist, psychologist, social worker, registered nurse , *clinical professional counselor* or marriage and family therapist who is unable to demonstrate proficiency in the oral and written expression of the English language.

Sec. 86. NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. "Advisory Board" means the Advisory Board on Maternal and Child Health.

2. "Department" means the Department of Health and Human Services.

3. "Director" means the Director of the Department.

4. "Fetal alcohol syndrome" includes fetal alcohol effects.

5. "Health Division" means the Health Division of the Department.

6. "Obstetric center" has the meaning ascribed to it in NRS 449.0155.

7. "Provider of health care or other services" means:

(a) ~~[An]~~ *A clinical alcohol and drug abuse counselor who is licensed, or an* alcohol and drug abuse counselor who is licensed or certified , pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or an osteopathic physician who is licensed pursuant to chapter 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) *A licensed clinical professional counselor;*

(g) A licensed social worker; or

~~[(g)]~~ *(h)* The holder of a certificate of registration as a pharmacist.

Sec. 87. NRS 484.37937 is hereby amended to read as follows:

484.37937 1. An offender who is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792, other than an offender who is found to have a concentration of alcohol of 0.18 or more in his blood or breath, may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 6 months. The court shall authorize that treatment if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified , *or a clinical alcohol and drug abuse counselor who is licensed,* pursuant to chapter 641C of NRS , to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the cost of the treatment to the extent of his financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 24 hours of community service.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the question of whether the offender is eligible to undergo a program of treatment for alcoholism or drug abuse. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion. The hearing must be limited to the question of whether the offender is eligible to undergo such a program of treatment.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

4. If the court grants an application for treatment, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum fine provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of any condition of the suspension.

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.

Sec. 88. NRS 484.3794 is hereby amended to read as follows:

484.3794 1. An offender who is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 1 year if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified *, or a clinical alcohol and drug abuse counselor who is licensed,* pursuant to chapter 641C of NRS *,* to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 5 days and, if required pursuant to NRS 484.3792, has performed or will perform not less than one-half of the hours of community service.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the

minimum provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of a condition of the suspension.

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.

Sec. 89. NRS 484.37943 is hereby amended to read as follows:

484.37943 1. If an offender is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 and if the concentration of alcohol in the offender's blood or breath at the time of the offense was 0.18 or more, or if an offender is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether he is an abuser of alcohol or other drugs.

2. If an offender is convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 and if the offender is under 21 years of age at the time of the violation, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether he is an abuser of alcohol or other drugs.

3. Except as otherwise provided in subsection 4, 5 or 6, the evaluation of an offender pursuant to this section must be conducted at an evaluation center by:

(a) An alcohol and drug abuse counselor who is licensed or certified *, or a clinical alcohol and drug abuse counselor who is licensed,* pursuant to chapter 641C of NRS , to make that evaluation; or

(b) A physician who is certified to make that evaluation by the Board of Medical Examiners,

➥ who shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

4. The evaluation of an offender who resides more than 30 miles from an evaluation center may be conducted outside an evaluation center by a person who has the qualifications set forth in subsection 3. The person who conducts the evaluation shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

5. The evaluation of an offender who resides in another state may, upon approval of the court, be conducted in the state where the offender resides by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.

6. The evaluation of an offender who resides in this State may, upon approval of the court, be conducted in another state by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation if the location of the physician or other person in the other state is closer to the residence of the offender than the nearest location in this State at which an evaluation may be conducted. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.

7. An offender who is evaluated pursuant to this section shall pay the cost of the evaluation. An evaluation center or a person who conducts an evaluation in this State outside an evaluation center shall not charge an offender more than $100 for the evaluation.

Sec. 90. NRS 484.3796 is hereby amended to read as follows:

484.3796 1. Before sentencing an offender for a violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792 or a violation of NRS 484.3795 or 484.37955, the court shall require that the offender be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.

2. The evaluation must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified *, or a clinical alcohol and drug abuse counselor who is licensed,* pursuant to chapter 641C of NRS *,* to make such an evaluation;

(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or

(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.

3. The alcohol and drug abuse counselor, *clinical alcohol and drug abuse counselor,* physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.

Sec. 91. NRS 488.430 is hereby amended to read as follows:

488.430 1. Before sentencing a defendant pursuant to NRS 488.420, 488.425 or 488.427, the court shall require that the defendant be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.

2. The evaluation must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified , *or a clinical alcohol and drug abuse counselor who is licensed,* pursuant to chapter 641C of NRS , to make such an evaluation;

(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or

(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.

3. The alcohol and drug abuse counselor, *clinical alcohol and drug abuse counselor,* physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.

Sec. 92. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.

Sec. 93. NRS 689A.0483 is hereby amended to read as follows:

689A.0483 If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of ~~[~~the~~]~~ practice of a licensed marriage and family therapist ~~[~~,~~]~~ *or licensed clinical professional counselor,* the insured is entitled to reimbursement for treatment by a marriage and family therapist *or clinical professional counselor* who is licensed pursuant to chapter 641A of NRS.

Sec. 94. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.

Sec. 95. NRS 689B.0383 is hereby amended to read as follows:

689B.0383 If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of ~~[~~the~~]~~ practice of a licensed marriage and family therapist ~~[~~,~~]~~ *or licensed clinical professional counselor,* the insured is entitled to reimbursement for treatment by a marriage and family therapist *or clinical professional counselor* who is licensed pursuant to chapter 641A of NRS.

Sec. 96. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to

reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.

Sec. 97. NRS 695B.1973 is hereby amended to read as follows:

695B.1973 If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of ~~[the]~~ practice of a licensed marriage and family therapist ~~[,]~~ *or licensed clinical professional counselor*, the insured is entitled to reimbursement for treatment by a marriage and family therapist *or clinical professional counselor* who is licensed pursuant to chapter 641A of NRS.

Sec. 98. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.

Sec. 99. NRS 695C.1773 is hereby amended to read as follows:

695C.1773 If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of ~~[the]~~ practice of a licensed marriage and family therapist ~~[,]~~ *or licensed clinical professional counselor*, the insured is entitled to reimbursement for treatment by a marriage and family therapist *or clinical professional counselor* who is licensed pursuant to chapter 641A of NRS.

Sec. 99.5. *Section 8 of this act is hereby amended to read as follows:*

Sec. 8. Each applicant for a license to practice as a clinical professional counselor must furnish evidence satisfactory to the Board that he:

1. Is at least 21 years of age;
2. Is of good moral character;
3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;
4. Has:

(a) Completed his residency training in psychiatry from an accredited institution approved by the Board;

(b) A graduate degree from a program approved by the Council for Accreditation of Counseling and Related Educational Programs as a program in mental health counseling or community counseling; or

(c) An acceptable degree as determined by the Board which includes the completion of a practicum and internship in mental health counseling which was taken concurrently with the degree program and was supervised by a licensed mental health professional; and

5. Has:

(a) At least 2 years of postgraduate experience in professional counseling;

(b) At least 3,000 hours of supervised experience in professional counseling which includes, without limitation:

(1) At least 1,500 hours of direct contact with clients; and

(2) At least 100 hours of counseling under the direct supervision of an approved supervisor of which at least 1 hour per week was completed for each work setting at which the applicant provided counseling; and

(c) ~~[Either:~~

~~(1) Passed the National Counselor Examination for Licensure and Certification which is administered by the National Board for Certified Counselors and provided evidence satisfactory to the Board of at least 3 years of work experience in mental health counseling; or~~

~~(2)]~~ Passed the National Clinical Mental Health Counseling Examination which is administered by the National Board for Certified Counselors.

Sec. 100. 1. As soon as practicable on or after July 1, 2007, the Governor shall, pursuant to paragraph (b) of subsection 1 of NRS 641A.100, as amended by section 16 of this act, appoint to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors:

(a) One member whose term ends on June 30, 2010; and

(b) One member whose term ends on June 30, 2011.

2. *As soon as practicable on or after July 1, 2008, the Governor shall, pursuant to paragraph (b) of subsection 1 of NRS 641A.100, as amended by section 16.5 of this act, appoint to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors one member whose term ends on June 30, 2012.*

3. Notwithstanding the provisions of section 16 of this act, the members described in subsection 1 that the Governor is required to appoint to the Board must have the qualifications for licensure as a clinical professional counselor set forth in section 8 of this act at the time of their appointment to the Board.

Sec. 101. 1. This section and sections 1 to ~~[20,]~~ *15,* inclusive, ~~[and]~~ *16, 17 to 20, inclusive,* 22 to ~~[100,]~~ *99,* inclusive, *and 100* of this act become effective ~~[on July 1, 2007, for the purposes of appointing members to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors and]~~ *:*

(a) Upon passage and approval for the purposes of adopting regulations to carry out the amendatory provisions of this act ~~[, and on January 1, 2008,]~~ *; and*

(b) On July 1, 2007, for all other purposes.

2. *Sections 15.5 and 16.5 of this act become effective on July 1, 2008.*

3. Section 8 of this act expires by limitation on December 31, 2009.

4. Section 99.5 of this act becomes effective on January 1, 2010.

5. Section 20 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

~~[3.]~~ *6.* Section 21 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

~~[4.]~~ *7.* Sections 21 and 27 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton, Titus and Heck.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 431.

Bill read second time.

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

Amendment No. 899.

"SUMMARY—Establishes provisions governing condominium hotels. (BDR 10-1056)"

"AN ACT relating to condominium hotels; establishing provisions governing condominium hotels; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes provisions governing condominium hotels. These provisions are set forth in a new chapter that is patterned closely after chapter 116 of NRS which governs common-interest communities. This new chapter governing condominium hotels contains provisions regarding: (1) the

creation, alteration and termination of condominium hotels; (2) the management of condominium hotels; (3) the protection of purchasers; and (4) the administration and enforcement of the chapter.

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

Section 1. Title 10 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 177, inclusive, of this act.

Sec. 2. *This chapter may be cited as the Condominium Hotel Act.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 47, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Administrator" means the Real Estate Administrator.*

Sec. 5. *1. "Affiliate of a declarant" means any person who controls, is controlled by or is under common control with a declarant.*

2. A person "controls" a declarant if the person:

(a) Is a general partner, officer, director or employer of the declarant;

(b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the declarant;

(c) Controls in any manner the election of a majority of the directors of the declarant; or

(d) Has contributed more than 20 percent of the capital of the declarant.

3. A person "is controlled by" a declarant if the declarant:

(a) Is a general partner, officer, director or employer of the person;

(b) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the person;

(c) Controls in any manner the election of a majority of the directors of the person; or

(d) Has contributed more than 20 percent of the capital of the person.

4. Control does not exist if the powers described in this section are held solely as security for an obligation and are not exercised.

Sec. 6. *"Allocated interests" means the undivided interest in the common elements, the liability for common expenses and votes in the association , but , except as otherwise provided in the declaration, not in the shared components or the hotel unit.*

Sec. 7. *"Association" or "unit-owners' association" means a unit-owners' association for a condominium hotel organized under section 82 of this act.*

Sec. 8. *"Commission" means the Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600.*

Sec. 9. *"Common elements" means any real estate within the condominium hotel, excluding the units and shared components, that is designated or defined in the declaration as being a common element, which may include, without limitation, airspace or subsurface rights.*

Sec. 10. *"Common expenses" means expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.*

Sec. 11. *"Community manager" means a person who provides for or otherwise engages in the management of a common-interest community or the management of an association of a condominium hotel.*

Sec. 12. *"Complaint" means a complaint filed by the Administrator pursuant to section 172 of this act.*

Sec. 13. *"Condominium hotel" means a development in which:*

1. Portions of the real estate are designated for separate ownership;

2. A hotel unit is defined which may contain shared components;

3. A transient rental program may be offered to the residential units' owners; and

4. The remainder of the real estate, which may be limited to airspace or subsurface rights, is designated as common elements and is controlled by an association.

Sec. 14. *"Converted building" means a building that at any time before creation of the condominium hotel was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.*

Sec. 14.5. "Dealer" means a person in the business of selling units for his own account.

Sec. 15. *"Declarant" means any person or group of persons acting in concert who, as part of a common promotional plan, offers to dispose of his or its interest in a unit not previously disposed of, ~~[and includes any successors or assignees of the declarant.]~~ or reserves or succeeds to any special declarant's rights.*

Sec. 16. *"Declaration" means any instrument, however denominated, that creates a condominium hotel, including any amendment to an instrument.*

Sec. 17. *"Developmental rights" means any right or combination of rights reserved by a declarant in the declaration to:*

1. Add real estate to a condominium hotel;

2. Create units, common elements, limited common elements, shared components or a hotel unit within a condominium hotel;

3. Subdivide units or convert units into common elements, shared components or part of a hotel unit;

4. Subdivide or convert common elements into shared components or part of a hotel unit; or

5. Withdraw real estate from a condominium hotel.

Sec. 18. *"Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a residential unit, but the term does not include the transfer or release of a security interest.*

Sec. 19. *"Division" means the Real Estate Division of the Department of Business and Industry.*

Sec. 20. *"Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.*

Sec. 21. *"Financial statement" means a financial statement of an association that is prepared and presented in accordance with the requirements established by the Commission pursuant to section 112 of this act.*

Sec. 22. *"Governing documents" means:*

1. The declaration for the condominium hotel;

2. The articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents that are used to organize the association for the condominium hotel;

3. The bylaws and rules of the association; and

4. Any other documents that govern the operation of the association ~~[or]~~ , the common elements ~~[.]~~ or the shared components.

Sec. 23. *"Hearing panel" means a hearing panel appointed by the Commission pursuant to section 164 of this act.*

Sec. 24. *"Hotel unit" means a physical portion of the condominium hotel initially designated for ownership by the declarant or hotel unit owner . ~~[that may be used by the declarant or hotel unit owner for commercial uses which include, without limitation, operation of the shared components and other areas within the condominium hotel which are not designated as shared components.]~~*

Sec. 25. *"Hotel unit owner" means the owner of the hotel unit and the shared components. The hotel unit owner may be the declarant or any successor or assignee of the declarant or an affiliate of the declarant.*

Sec. 26. *"Identifying number" means a symbol, address or legally sufficient description of real estate which identifies only one unit in a condominium hotel.*

Sec. 27. *"Leasehold condominium hotel" means a condominium hotel in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the condominium hotel or reduce its size.*

Sec. 28. *"Liability for common expenses" means the liability for common expenses allocated to each unit pursuant to section 66 of this act.*

Sec. 29. *"Liability for shared expenses" means the liability for shared expenses allocated to each residential unit as set forth in the declaration. The hotel unit owner has the power to charge the residential unit owners for such unit owner's allocated liability for the shared expenses, including, without limitation, the maintenance, insurance, repair or replacement of the hotel unit and shared components.*

Sec. 30. *"Limited common element" means a portion of the common elements allocated by the declaration or by operation of this chapter for the exclusive use of one or more but fewer than all of the units.*

Sec. 31. *"Major component of the common elements" means any component of the common elements, including, without limitation, any amenity, improvement, furnishing, fixture, finish, system or equipment, that may, within 30 years after its original installation, require repair, replacement or restoration in excess of routine annual maintenance in the annual operating budget of an association.*

Sec. 31.5. *"Major component of the hotel unit" means any component of the hotel unit, including, without limitation, any amenity, improvement, furnishing, fixture, finish, system or equipment, that may, within 30 years after its original installation, require repair, replacement or restoration in excess of routine annual maintenance.*

Sec. 32. *"Major component of the shared components" means any component of the shared components, including, without limitation, the facade of any building, any other portion of the building structure, any amenity, improvement, furnishing, fixture, finish, system or equipment that is designated as part of the shared components and that may, within 30 years after its original installation, require repair, replacement or restoration in excess of routine annual maintenance.*

Sec. 33. *"Offering" means any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a residential unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium hotel not located in this State, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the condominium hotel is located. The verb "offer" has a similar meaning.*

Sec. 34. *"Ombudsman" means the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels created in NRS 116.625.*

Sec. 35. *"Party to the complaint" means the Division and the respondent.*

Sec. 36. *"Person" includes a government and governmental subdivision or agency.*

Sec. 37. *"Purchaser" means a person, other than a declarant, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than a leasehold interest, including options to renew, of less than 20 years, or as security for an obligation.*

Sec. 38. *"Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests that by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance.*

"Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

Sec. 39. *"Residential unit" means a physical portion of the condominium hotel designated for separate residential ownership or occupancy, the boundaries of which are described in the declaration.*

Sec. 40. *"Residential unit owner" means a declarant, the hotel unit owner or other person who owns a residential unit, or a lessee of a residential unit in a leasehold condominium hotel whose lease expires simultaneously with any lease the expiration of which will remove the residential unit from the condominium hotel, but does not include a person having an interest in a residential unit solely as security for an obligation. The declarant is the owner of any residential unit created by the declaration until that unit is conveyed to another person.*

Sec. 41. *"Security interest" means an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association and any other consensual lien or contract for retention of title intended as security for an obligation.*

Sec. 42. *"Shared components" means portions of the condominium hotel, excluding the residential units and the common elements but including easements in favor of the units, which may be located within the hotel unit and which are set forth as shared components in the declaration. Shared components are owned by the hotel unit owner, and the hotel unit owner has the power to charge the residential units' owners for the maintenance, repair, replacement and insurance of the shared components, as provided in the declaration. Shared components may include, without limitation, hallways, lobbies, elevators, recreational facilities and service areas.*

Sec. 43. *"Shared expenses" means the charges set forth in the declaration that are made to the units by the hotel unit owner for the operation, maintenance, repair, replacement, and insurance of the hotel unit, including, without limitation, the shared components, together with any allocations to reserves, any expenses allocated to the units pursuant to a cost sharing agreement, easement agreement or other agreement that benefits the condominium hotel to which the hotel unit owner is a party and any other charges or fees set forth in the declaration which are allocated to residential owners.*

Sec. 44. *"Special declarant's rights" means rights reserved for the benefit of a declarant* ~~*[, its successors or assignees or an affiliate of a declarant, including, without limitation, the hotel unit owner,]*~~ *to:*

1. Complete improvements indicated on plats and plans or in the declaration;

2. Exercise any developmental right;

3. Maintain sales offices, management offices and signs advertising the condominium hotel and models ~~[without the need to reserve such rights;]~~ , provided, however, that the declarant is not required to reserve the right to maintain such offices or signs within the hotel unit or shared components or within any unit owned by the declarant;

4. Use easements through the common elements, shared components or hotel unit for the purpose of making improvements within the condominium hotel;

5. Merge or consolidate a condominium hotel with another condominium hotel; or

6. Appoint or remove any officer of the association or any member of an executive board during any period of declarant's control.

Sec. 45. *"Time share" has the meaning ascribed to it in NRS ~~[116.091.]~~ 119A.140.*

Sec. 46. *"Unit" means a residential unit, a hotel unit ~~[and any other unit which is created by the declaration.]~~ or any other type of unit that may be created as a physical portion of the condominium hotel for separate ownership or occupancy, the boundaries of which are described in the declaration. If another type of unit is created, the rights and obligations associated with such a unit are as set forth in the governing documents.*

Sec. 47. *"Unit's owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold condominium hotel ~~[.]~~ whose lease expires simultaneously with any lease, the expiration or termination of which will remove the unit from the condominium hotel, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium hotel, the declarant is the owner of any unit created by the declaration until that unit is conveyed to another person.*

Sec. 48. *Except as expressly provided in this chapter, its provisions may not be varied by agreement, and rights conferred by it may not be waived. A declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.*

Sec. 49. *1. A building code may not impose any requirement upon any structure in a condominium hotel which it would not impose upon a physically identical development under a different form of ownership.*

2. In a condominium hotel, no zoning, subdivision or other law, ordinance or regulation governing the use of real estate may prohibit the condominium hotel as a form of ownership or impose any requirement upon a condominium hotel which it would not impose upon a physically identical development under a different form of ownership.

3. Except as otherwise provided in subsections 1 and 2, the provisions of this chapter do not invalidate or modify any provision of any building code or zoning, subdivision or other law, ordinance, rule or regulation governing the use of real estate.

4. The provisions of this section do not prohibit a local government from imposing different requirements and standards regarding design and construction on different types of structures within a condominium hotel.

Sec. 50. *1. If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit's owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit's owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations.*

2. Except as otherwise provided in subsection 1, if part of a hotel unit is acquired by eminent domain, the award must compensate the hotel unit owner for the reduction in value of the hotel unit and its interest in the common elements, whether or not any common elements are acquired. If part of a residential unit is acquired by eminent domain, the award must compensate the residential unit owner for the reduction in value of the residential unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides:

(a) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and

(b) The portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

3. If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

4. If part of the shared components or hotel unit is acquired by eminent domain, the portion of the award attributable to the shared components or hotel unit taken must be paid to the owner of the hotel unit or the shared components.

5. The judicial decree must be recorded in every county in which any portion of the condominium hotel is located.

Sec. 51. *The principles of law and equity, including the law of corporations, the law of unincorporated associations, the law of real property, and the law relative to capacity to contract, principal and agent,*

eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this chapter, except to the extent inconsistent with this chapter.

Sec. 52. *If a matter governed by this chapter is also governed by chapter 78, 81, 82, 86, 87, 88 or 88A of NRS and there is a conflict between the provisions of this chapter and the provisions of those other chapters, the provisions of this chapter prevail.*

Sec. 53. *This chapter being a general act intended as a unified coverage of its subject matter, no part of it may be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.*

Sec. 54. *1. The court, upon finding as a matter of law that a contract or clause of a contract was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or limit the application of any unconscionable clause to avoid an unconscionable result.*

2. Whenever it is claimed, or appears to the court, that a contract or any clause of a contract is or may be unconscionable, the parties, to aid the court in making the determination, must be afforded a reasonable opportunity to present evidence as to:

(a) The commercial setting of the negotiations; and

(b) The effect and purpose of the contract or clause.

Sec. 55. *Every contract or duty governed by this chapter imposes an obligation of good faith in its performance or enforcement.*

Sec. 56. *1. The remedies provided by this chapter must be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. Consequential, special or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.*

2. Any right or obligation declared by this chapter is enforceable by judicial proceeding.

Sec. 57. *1. This chapter applies to all condominium hotels created within this State.*

2. Except as otherwise provided in this chapter, the provisions of chapters 116, 117 and 278A of NRS do not apply to condominium hotels.

3. This chapter does not apply to:

(a) A common-interest community as that term is defined in NRS 116.021.

(b) Time shares governed by the provisions of chapter 119A of NRS.

(c) A condominium hotel that was created before January 1, 2008, unless the declaration of that condominium hotel otherwise provides or is amended to provide for the applicability of this chapter.

Sec. 58. *1. Any provision contained in a declaration, bylaw or other governing document of a condominium hotel that violates the provisions of this chapter shall be deemed to conform with those provisions by operation*

of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to a declaration, bylaws or plats and plans of any condominium hotel created before January 1, 2008:

(a) If the result accomplished by the amendment was permitted before January 1, 2008, the amendment may be made in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter and was not permitted by law before January 1, 2008, the amendment may be made under this chapter.

Sec. 59. *If any change is made to the governing documents, the secretary or other officer specified in the bylaws of the association or the hotel unit owner shall, within 30 days after the change is made, prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a copy of the change that was made.*

Sec. 60. *A condominium hotel may be created pursuant to this chapter only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the condominium hotel is located and must be indexed in the grantee's index in the name of the condominium hotel and the association and in the grantor's index in the name of each person executing the declaration.*

Sec. 61. *The boundaries of the hotel unit, including the shared components, if any, must be expressly set forth in the declaration or other governing documents of the condominium hotel ~~[.]~~ and must be recorded in any county in which the declaration is recorded.*

Sec. 62. *1. The inclusion in a governing document of a provision that violates any provision of this chapter does not render any other provisions of the governing document invalid or otherwise unenforceable if the other provisions can be given effect in accordance with their original intent and the provisions of this chapter.*

2. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provision of the declaration, bylaws, rules or regulations adopted pursuant to section 83 of this act.

3. In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this chapter.

4. Title to any portion of a condominium hotel is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

Sec. 63. *A description of the residential units and the hotel unit which sets forth the name of the condominium hotel, the file number and book or other information to show where the declaration is recorded, the county in*

which the condominium hotel is located and the identifying number of the units, is a legally sufficient description of those units and all rights, obligations and interests appurtenant to those units which were created by the declaration or bylaws.

Sec. 64. *1. The declaration for a condominium hotel must contain:*

(a) The names of the condominium hotel and the association.

(b) The name of every county in which any part of the condominium hotel is situated.

(c) A sufficient description of the real estate included in the condominium hotel.

(d) A statement of the maximum number of units that the declarant reserves the right to create.

(e) A description of the boundaries of each residential unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit.

(f) A description of the shared components, hotel unit and the common elements.

(g) A description of any limited common elements.

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised.

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate.

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse.

(k) A description of any easements benefiting or burdening the units, including easements providing the residential unit owners with rights of ingress or egress through the common elements, hotel unit or shared components for the purpose of accessing their respective units.

(l) An allocation to the units of the allocated interests as described in this chapter, and an allocation to the residential units of their respective liability for shared expenses and other charges of the hotel unit owner.

(m) A description of any other payments, fees and charges that may be charged by the hotel unit owner in order to offset the increased burden

placed on the shared components as the result of use of residential units as transient rentals.

(n) Any restrictions:

(1) On use, occupancy and alienation of the units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the condominium hotel, or on termination of the condominium hotel.

(o) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the condominium hotel or to which any portion of the condominium hotel is or may become subject by virtue of a reservation in the declaration.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 65. *1. Any lease the expiration or termination of which may terminate the condominium hotel or reduce its size must be recorded. Every lessor of such a lease in a condominium hotel shall sign the declaration. The declaration must state:*

(a) The recording date where the lease is recorded.

(b) The date on which the lease is scheduled to expire.

(c) A legally sufficient description of the real estate subject to the lease.

(d) Any right of the units' owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights.

(e) Any right of the units' owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights.

(f) Any rights of the units' owners to renew the lease and the conditions of any renewal, or a statement that such rights do not exist.

2. After the declaration for a leasehold condominium hotel is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit's owner who makes timely payment of his share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. The leasehold interest of a unit's owner in a condominium hotel is not affected by failure of any other person to pay rent or fulfill any other covenant.

3. Acquisition of the leasehold interest of any unit's owner by the owner of the reversion or remainder does not merge the leasehold and freehold interests unless the leasehold interests of all units' owners subject to that reversion or remainder are acquired.

4. If the expiration or termination of a lease decreases the number of units in a condominium hotel, the allocated interests must be reallocated in accordance with subsection 1 of section 50 of this act as if those units had been taken by eminent domain. Reallocations must be confirmed by an

amendment to the declaration prepared, executed and recorded by the association.

Sec. 66. *1. The declaration must allocate to each unit, including any unit owned by the declarant or hotel unit owner, as applicable, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and a portion of the votes in the association.*

2. The declaration may allocate to each residential unit, including any residential unit owned by the declarant or the hotel unit owner, as applicable, a fraction or percentage of the liability for shared expenses and other charges of the hotel unit owner. Unless the declaration provides otherwise, residential units are not allocated an undivided interest in the ownership of the hotel unit or the shared components.

3. The declaration must state the formulas used to establish allocations of interests and to establish each residential unit's allocated liability for shared expenses. Unless the declaration provides otherwise, the formula used to allocate interests and to allocate liability for shared expenses must be based on the square footage of the residential units. Those allocations of interest and allocations of liability for shared expenses must not discriminate in favor of any unit within the condominium hotel.

4. The declaration may provide:

(a) That different allocations of votes are made to the units on particular matters specified in the declaration;

(b) For cumulative voting only for the purpose of electing members of the executive board;

(c) For class voting on specified issues affecting the class if necessary to protect valid interests of the class; ~~[and]~~

(d) For the hotel unit owner's ability ~~[to fine residential unit owners or]~~ to prohibit use of the shared components by residential unit owners or the tenants or guests of the residential unit owners for violation of reasonable rules and regulations as may be established by the hotel unit owner. If the hotel unit owner prohibits use of the shared components, such prohibition may not restrict use of the shared components as is necessary for vehicular or pedestrian ingress or egress to or from the residential unit ~~[.]~~ ; and

(e) For the hotel unit owner's ability to convey or subject the shared components and the portions of the hotel unit not designated as shared components to a security interest without the approval of other units' owners.

5. Except for minor variations because of rounding, the sum of the liabilities for common expenses allocated at any time to all the units must each equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

6. Except for minor variations because of rounding, the sum of the liabilities for shared expenses allocated at any time to all the residential units must each equal one if stated as a fraction or 100 percent if stated as a

percentage. In the event of any discrepancy between a specific residential unit's allocated share of liability for shared expenses and the result derived from the application of the pertinent formula, the specific residential unit's allocation of liability for shared expenses prevails.

7. In a condominium hotel, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

8. If units may be added to or withdrawn from the condominium hotel, the declaration must state the formulas to be used to reallocate the allocated interests and the allocations of liability for shared expenses among all units included in the condominium hotel after the addition or withdrawal.

Sec. 66.3. 1. The rules and regulations established by a hotel unit owner, if any:

(a) Must be reasonably related to the duties of the hotel unit owner.

(b) Must be sufficiently explicit in their prohibition, direction or limitation to inform a person of any action or omission required for compliance.

(c) Must not be adopted to evade any obligation of the hotel unit owner.

(d) Must be consistent with the governing documents of the association and must not arbitrarily restrict conduct or require the construction of any capital improvement by a unit's owner that is not required by the governing documents of the association.

(e) Must be uniformly enforced under the same or similar circumstances against all units' owners. Any rule that is not so uniformly enforced may not be enforced against any unit's owner.

2. If the hotel unit owner adopts a policy to prohibit use of the shared components by residential unit owners for violation of reasonable rules and regulations as may be established by the hotel unit owner, the hotel unit owner or his designated agent shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a copy of such policy and the rules and regulations.

Sec. 66.5. 1. A hotel unit owner may not prohibit use of the shared components pursuant to paragraph (d) of subsection 4 of section 66 of this act unless:

(a) Not less than 30 days before the violation, the residential unit owner against whom the prohibition will be imposed has been provided with written notice of the applicable provisions of the rules and regulations established by the hotel unit owner that form the basis of the violation; and

(b) Within 10 days after the discovery of the violation, the residential unit owner against whom the prohibition will be imposed has been provided with:

(1) Written notice specifying the details of the violation; and

(2) A reasonable opportunity to contest the violation.

2. Within 10 days after receiving the written notice specifying the details of the violation, the residential unit owner may:

(a) Provide to the hotel unit owner any written information or any explanation relating to the violation; or

(b) Request a meeting with the hotel unit owner to present the information or explanation relating to the violation.

3. A meeting requested by a residential unit owner pursuant to subsection 2 must be held as soon as practicable, but not later than 30 days after the date on which the request for a meeting is received by the hotel unit owner. The meeting may be held in person, by telephone or by videoconferencing.

4. The provisions of this section establish the minimum procedural requirements that the hotel unit owner must follow before the hotel unit owner may prohibit use of the shared components by a residential unit owner. The provisions of this section do not preempt any provisions of the rules and regulations established by the hotel unit owner that provide greater procedural protections.

Sec. 66.7. 1. If the hotel unit owner receives a written complaint from a unit's owner alleging that the hotel unit owner has violated any provision of the governing documents or any other provision of this chapter, the hotel unit owner shall, not later than 10 business days after the date on which the hotel unit owner received the complaint, acknowledge receipt of the complaint by notifying the unit's owner of the receipt.

2. The hotel unit owner shall respond in writing to a complaint described in subsection 1 not later than 20 business days after the date on which the hotel unit owner received the complaint.

Sec. 67. *1. The declaration may allocate limited common elements to any unit or units within the condominium hotel. The declaration must specify to which unit or units each limited common element is allocated. An allocation may not be altered without the consent of the units' owners to which the limited common elements are allocated.*

2. Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by the units' owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record it. The amendment must be recorded in the names of the parties and the condominium hotel.

3. A common element not previously allocated as a limited common element may be so allocated only by amendments to the declaration.

Sec. 68. *1. Plats and plans are a part of the declaration and are required for all condominium hotels. Each plat and plan must be clear and legible and contain a certification that the plat or plan contains all information required by this section.*

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

(a) The name and a survey of the area which is the subject of the plat;

(b) A sufficient description of the real estate;

(c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;

(d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the condominium hotel;

(e) The location and dimensions with reference to an established datum of any vertical residential unit boundaries and that unit's identifying number;

(f) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection 4 and that unit's identifying number;

(g) The location and dimensions of the units, shared components and common elements; and

(h) The location and dimensions of limited common elements, if any, including porches, balconies and patios.

3. Each plat must be certified by an independent professional land surveyor. The plans of the units must be certified by an independent professional engineer or architect.

4. Plats and plans need not show the location and dimensions of the units' boundaries and their limited common elements if:

(a) The plat shows the location and dimensions of all buildings containing or comprising the units; and

(b) The declaration includes other information that shows or contains a narrative description of the general layout of the units in those buildings and the limited common elements, if any, allocated to those units.

5. To the extent not shown or projected on the plats, plans of the units must show or project any units in which the declarant has reserved the right to create additional units or common elements, or portions of the shared components or hotel unit, identified appropriately.

6. Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part and need not be depicted on the plats and plans of the units.

7. Upon exercising any developmental right, the declarant shall prepare, execute and record new or amended plats necessary to conform to the requirements of this section.

Sec. 69. *1. To exercise any developmental right reserved in the declaration, the declarant shall prepare, execute and record an amendment to the declaration. The declarant is the owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created and, except in the case of subdivision or conversion of units described in this section, reallocate the allocated interests and the allocated liability for shared expenses by the declarant or hotel unit owner among all units. The amendment must describe any common elements, limited common*

elements, shared components or portions of the hotel unit thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by section 67 of this act.

2. Developmental rights may be reserved within any real estate added to the condominium hotel if the amendment adding that real estate includes all matters required by section 64 or 65 of this act, as the case may be. This provision does not extend the time limit on the exercise of developmental rights imposed by the declaration.

3. Whenever a declarant exercises a developmental right to subdivide or convert a unit or shared components previously created into additional units, common elements, shared components, or additional portions of the hotel unit:

(a) If the declarant converts the unit or shared components entirely to common elements, the amendment to the declaration must convey it to the association or reallocate all the allocated interests and allocated liability for shared expenses of that unit among the other units as if that unit had been taken by eminent domain; and

(b) If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests and shared expenses of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

4. If the declarant converts a shared component into a residential unit, the amendment to the declaration must reallocate all the allocated interests and allocated liability for shared expenses to the residential units.

5. If the declaration provides that all or a portion of the real estate is subject to a right of withdrawal:

(a) If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and

(b) If any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.

Sec. 70. *1. The declaration must describe the boundaries of the hotel unit, which are owned by the hotel unit owner. The hotel unit may be used by the hotel unit owner for commercial purposes, including the operation of a hotel and other commercial uses as set forth in the declaration. Except as otherwise provided in the declaration, the hotel unit owner may subdivide the hotel unit without prior notice or demand to the residential unit owners.*

2. The declaration must describe the shared components which are deemed to be a part of the hotel unit. The hotel unit owner shall, from time to time, be responsible for the repair, replacement, improvement, maintenance, management, operation and insurance of the shared components, all of which must be conducted in a commercially reasonable manner. The hotel

unit owner, as applicable, has the power to charge the residential unit owners for the shared expenses.

3. The residential unit owners have an easement for ingress and egress across and upon the hotel unit and the shared components as is reasonably necessary for the residential unit owners and guests to access the residential units. The residential unit owners have an easement for the use and enjoyment of the shared components, subject to reasonable rules and regulations as may be established by the hotel unit owner.

Sec. 71. *Except as otherwise provided in this section and subject to the provisions of the declaration and other provisions of law, a residential unit owner:*

1. May make any improvements or alterations to his residential unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium hotel; and

2. May not change the appearance of the common elements, the shared components, the hotel unit or the exterior appearance of a unit, building or any other portion of the condominium hotel.

Sec. 72. *The existing physical boundaries of a residential unit or a hotel unit are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats and plans.*

Sec. 73. *Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the hotel unit owner by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests and allocation of shared expenses, the application must state the proposed reallocations. Unless the hotel unit owner determines within 90 days that the reallocations are unreasonable, the hotel unit owner shall prepare an amendment that identifies the units involved and states the reallocations. The amendment must be executed by those units' owners, contain words of conveyance between them and, on recordation, be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the association and the hotel unit owner.*

Sec. 74. *1. If the declaration expressly so permits, a residential unit may be subdivided into two or more residential units upon receipt of consent from the hotel unit owner. Subject to the provisions of the declaration and other provisions of law, upon receipt of consent from the hotel unit owner to subdivide a residential unit, the association shall prepare, execute and record an amendment to the declaration.*

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each residential unit created, and reallocate the allocated interests and allocated liability for shared expenses formerly allocated to the subdivided residential unit to the new residential units in any reasonable manner prescribed by the owner of the subdivided unit.

Sec. 75. *1. Provisions in an agreement to purchase a residential unit between a purchaser and a declarant which permit the declarant to amend or change the governing documents at any time before the close of escrow of a residential unit are enforceable.*

2. Following the period of a declarant's control of the association, with regard to an amendment that does not in any way affect the hotel unit or the shared components, the declaration may be amended by a majority of the total voting power in the association. The declaration may specify a larger number of votes necessary to amend the declaration.

3. Following the period of declarant's control of the association, with regard to an amendment that in any way affects the hotel unit or the shared components, such an amendment is not effective without the prior written consent of the declarant or the hotel unit owner and the vote of a majority of the total voting power in the association. The declaration may specify a larger number of votes necessary to amend the declaration.

4. No action to challenge the validity of an amendment adopted pursuant to this section may be brought more than 1 year after the amendment is recorded.

5. Every amendment to the declaration must be recorded in every county in which any portion of the condominium hotel is located and is effective only upon recordation. An amendment must be indexed in the grantee's index in the name of the condominium hotel and the association and in the grantor's index in the name of the parties executing the amendment.

Sec. 76. *1. Except in the case of a taking of the condominium hotel by eminent domain, termination of the condominium hotel or the declaration requires approval by:*

(a) The owners representing at least 80 percent of the votes in the association allocated to the residential unit owners; and

(b) The hotel unit owner.

2. An agreement to terminate the condominium hotel or the declaration must be evidenced by the execution of an agreement to terminate in the same manner as a deed by the hotel unit owner and the requisite number of units' owners. The agreement to terminate must specify a date after which the agreement will be void unless it is recorded before that date.

3. An agreement to terminate may provide that all of the common elements, shared components or units must be sold following termination. If, pursuant to the agreement, any real estate in the condominium hotel is to be sold following termination, the agreement must set forth the minimum terms of the sale.

4. The hotel unit owner, on behalf of the units' owners, may contract for the sale of real estate owned by the units' owners in a condominium hotel, but the contract is not binding on the units' owners and the declarant or hotel unit owner, as applicable, until approved pursuant to subsections 1 and 2. If any real estate owned by the units' owners is to be sold following termination, title to that real estate, upon termination, vests in the hotel unit owner as trustee for the holders of all interests in the units. Thereafter, the hotel unit owner has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the hotel unit owner continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to units' owners and lienholders as their interests may appear, in accordance with sections 77 and 78 of this act. Unless otherwise specified in the agreement to terminate, as long as the unit's owner holds title to the real estate, each unit's owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted ~~[the]~~ such unit's owner's unit. During the period of that occupancy, each unit's owner and his successors in interest remain liable for all assessments, shared expenses and other obligations imposed on units' owners by this chapter or the declaration.

5. If the real estate is not to be sold following termination, title to the common elements and residential units vests in the units' owners upon termination as tenants in common in proportion to their respective interests in the association as provided in section 78 of this act, and liens on the units shift accordingly. While the tenancy in common exists, each unit's owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted such ~~[unit owners']~~ unit's owner's unit.

6. Following termination of the condominium hotel, the proceeds of any sale of real estate, together with the assets of the association, are held by the hotel unit owner as trustee for units' owners and holders of liens on the units as their interests may appear.

Sec. 77. *1. Following termination of a condominium hotel, creditors of the association holding liens on the units, which were recorded before termination, may enforce those liens in the same manner as any lienholder. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.*

2. Creditors of the association are not entitled to payment from any unit's owner in excess of the amount of the creditor's lien against that owner's interest.

Sec. 78. *The respective interests of units' owners referred to in sections 76 and 77 of this act are as follows:*

1. Except as otherwise provided in subsection 2, the respective interests of units' owners are the fair market values of their units, allocated interests, and any limited common elements immediately before the termination, as determined by one or more independent appraisers selected by the hotel unit

owner ~~[.]~~ and the association. The decision of the independent appraisers must be distributed to the units' owners and becomes final unless disapproved within 30 days after distribution by units' owners to whom 25 percent of the total number of votes in the association are allocated. The proportion of interest of any unit's owner to that of all units' owners is determined by dividing the fair market value of that unit and its allocated interests by the total fair market values of all the units and their allocated interests.

2. If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereto before destruction cannot be made, the interests of all units' owners are their respective interests in the common elements immediately before the termination.

Sec. 79. *1. Except as otherwise provided in subsection 2, foreclosure or enforcement of a lien or encumbrance against the entire condominium hotel does not terminate, of itself, the condominium hotel, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium hotel, other than withdrawable real estate, does not withdraw that portion from the condominium hotel. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not withdraw, of itself, that real estate from the condominium hotel, but the person taking title thereto may require from the hotel unit owner, upon request, an amendment excluding the real estate from the condominium hotel.*

2. If a lien or encumbrance against a portion of the real estate comprising the condominium hotel has priority over the declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the condominium hotel.

Sec. 80. *The declaration may require that all or a specified number or percentage of the lenders who hold security interests encumbering the units approve specified actions of the units' owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to:*

1. Deny or delegate control over the general administrative affairs of the association by the units' owners or the executive board;

2. Prevent the association or the executive board from commencing, intervening in or settling any litigation or proceeding; or

3. Prevent any trustee or the association from receiving and distributing any proceeds of insurance except as otherwise provided in this chapter.

Sec. 81. *1. Any two or more condominium hotels, by agreement of the declarants or hotel unit owners and ratified by the associations as provided in subsection 2, may be merged or consolidated into a single condominium hotel. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant condominium hotel is the legal successor, for all purposes, of all of the preexisting condominium hotels, and the*

operations and activities of all associations of the preexisting condominium hotels are merged or consolidated into a single association that holds all powers, rights, obligations, assets and liabilities of all preexisting associations.

2. An agreement of two or more condominium hotels to merge or consolidate pursuant to subsection 1 must be evidenced by an agreement prepared, executed, recorded and certified by the declarant or hotel unit owner, as applicable, of each of the preexisting condominium hotels. The agreement must be ratified in each condominium hotel by the percentage of votes required to terminate that condominium hotel. The agreement must be recorded in every county in which a portion of the condominium hotel is located and is not effective until recorded.

3. Every agreement for merger or consolidation must provide for the reallocation of the allocated interests in the new association among the units of the resultant condominium hotel either by stating the reallocations or the formulas upon which they are based or by stating the percentage of overall allocated interests of the new condominium hotel which are allocated to all of the units comprising each of the preexisting condominium hotels, and providing that the portion of the percentages allocated to each unit formerly constituting a part of the preexisting condominium hotel must be equal to the percentages of allocated interests and shared expenses allocated to that unit by the declaration of the preexisting condominium hotel.

4. Every agreement for merger or consolidation must provide for the reallocation of the liability for shared expenses among the residential units of the resultant condominium hotel either by stating the reallocations or the formulas upon which they are based.

Sec. 82. *1. A unit-owners' association must be organized not later than the date the first residential unit in the condominium hotel is conveyed.*

2. The membership of the association at all times consists exclusively of all units' owners, including the hotel unit and any other units owned by the declarant or, following termination of the condominium hotel, of all owners of former units entitled to distributions of proceeds under the declaration, or their heirs, successors or assigns.

3. The association must:

(a) Be organized as a profit or nonprofit corporation, association, limited-liability company, trust or partnership;

(b) Include in its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof, that the purpose of the corporation, association, limited-liability company, trust or partnership is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "community association," "homeowners' association" or "unit-owners' association"; and

(d) Comply with the provisions of chapters 78, 81, 82, 86, 87, 88 and 88A of NRS when filing with the Secretary of State its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof.

4. Unless otherwise provided in the declaration, the association shall not have any ownership or control over the hotel unit or the shared components.

Sec. 83. *Subject to the provisions of the declaration, the association may do any or all of the following:*

1. Adopt and amend bylaws, rules and regulations pertaining to the common elements. Unless otherwise provided in the declaration, bylaws, rules or regulations adopted by the association must not attempt to exercise any control over the hotel unit or the shared components.

2. Adopt and amend budgets for revenues, expenditures and reserves relating to the common elements and collect assessments for common expenses from the units' owners.

3. Hire and discharge managing agents and other employees, agents and independent contractors of the association.

4. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the condominium hotel.

5. Make contracts and incur liabilities with regard to the common elements.

6. Regulate the use, maintenance, repair, replacement and modification of common elements.

7. Cause additional improvements to be made as a part of the common elements.

8. Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but common elements may be conveyed or subjected to a security interest only pursuant to section 108 of this act.

9. Grant easements, leases, licenses and concessions through or over the common elements.

10. Impose and receive any payments, fees or charges for the use, rental or operation of the common elements.

11. Impose charges for late payment of assessments on common elements.

12. Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in section 85 of this act.

13. Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

14. Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

15. Exercise any other powers conferred by the declaration or bylaws.

16. Exercise any other powers necessary and proper for the governance and operation of the association.

Sec. 84. *1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.*

2. The executive board may not act on behalf of the association to amend the declaration, to terminate the condominium hotel, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

Sec. 85. *1. Except as otherwise provided in this section and ~~[in]~~ unless the declaration ~~[,]~~ provides otherwise, if a residential unit owner or the tenant or guest of a residential unit owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:*

(a) Prohibit, for a reasonable time, the residential unit owner or the tenant or guest of the residential unit owner from:

(1) Voting on matters related to the association.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the residential unit owner or the tenant or guest of the residential unit owner from using any portion of the common elements, if any, as is necessary for vehicular or pedestrian ingress or egress to or from the residential unit.

(b) Impose a fine against the residential unit owner or the tenant or guest of the residential unit owner for each violation. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residential units' owners or residents of the condominium hotel, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residential units' owners or residents or guests of the condominium hotel, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

(a) Pays the fine;

(b) Executes a written waiver of the right to the hearing; or

(c) Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

8. Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the condominium

hotel, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed $20, if the outstanding balance is less than $200.

(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.

(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.

(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.

(5) May not exceed $500, if the outstanding balance is $5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

9. Unless the declaration provides otherwise, nothing in this section shall be construed as giving the association the power to sanction a ~~[unit]~~ unit's owner for matters related to the hotel unit or the shared components.

10. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 86. *If an association has imposed a fine against a residential unit owner or a tenant or guest of a residential unit owner pursuant to section 85 of this act for violations of the governing documents of the association, the association:*

1. Shall, in the books and records of the association, account for the fine separately from any assessment, fee or other charge; and

2. Shall not apply, in whole or in part, any payment made by the residential unit owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the residential unit owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.

Sec. 87. *1. Except as otherwise provided in this section, the declaration may provide for a period of declarant's control of the association, during which a declarant, or persons designated by him, may appoint and remove the officers of the association and members of the executive board. Regardless of the period provided in the declaration, a period of declarant's control terminates not later than:*

(a) Sixty days after conveyance of 75 percent of the residential units that may be created to residential unit owners other than a declarant;

(b) Five years after all declarants have ceased to offer residential units for sale in the ordinary course of business; or

(c) Five years after any right to add new residential units was last exercised,

➥ whichever occurs earlier.

2. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

3. Not later than 60 days after conveyance of 25 percent of the residential units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by residential units' owners other than the declarant. Not later than 60 days after conveyance of 50 percent of the residential units that may be created to residential units' owners other than a declarant, not less than 33 1/3 percent of the members of the executive board must be elected by residential units' owners other than the declarant.

Sec. 88. *1. Not later than the termination of any period of declarant's control, the ~~[residential unit]~~ units' owners ~~[and hotel unit owner]~~ shall elect an executive board of at least three members . ~~[, all of whom]~~ At least a majority of the members of the executive board must be ~~[units']~~ residential unit owners ~~[or, in the case of the hotel unit, a]~~ and at least one member of the executive board must be a duly authorized representative of the hotel unit owner. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.*

2. The term of office of a member of the executive board may not exceed ~~[2]~~ 3 years, except for members who are appointed by the declarant or the hotel unit owner. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant;

(b) Members of the executive board who are appointed by the hotel unit owner; and

(c) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive

board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or charges that are required to be paid to the association.

➥ *The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.*

6. Unless a person is appointed by the declarant, a person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot as follows:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the condominium hotel or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to section 121 of this act.

Sec. 89. *1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant or elected by the hotel unit owner, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:*

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. The removal of any member of the executive board must be conducted by secret written ballot as follows:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the condominium hotel or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

Sec. 90. *1. In addition to any applicable requirement set forth in this chapter, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by him, including:*

(a) The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

(b) An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of inception of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position.

(c) If major components of the common elements exist within the condominium hotel, a complete study of the reserves of the association, conducted by a person who holds a permit to conduct such a study issued pursuant to chapter 116A of NRS. At the time the control of the declarant ends, he shall:

(1) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account.

(2) Disclose, in writing, the amount by which he has subsidized the association's dues on a per unit basis.

(d) The association's money or control thereof.

(e) All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the

declarant has disclosed in the public offering statement that all such personal property used in the condominium hotel will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

(f) A copy of any plans and specifications used in the construction of the common elements which were completed within 2 years before the declaration was recorded.

(g) All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

(h) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common elements.

(i) Any renewable permits and approvals issued by governmental bodies applicable to the common elements or the operation of the association which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the condominium hotel.

(j) Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective pertaining to the residential units or the common elements.

(k) A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

(l) Contracts of employment in which the association is a contracting party.

(m) Any contract for service in which the association is a contracting party or in which the association has any obligation to pay a fee to the persons performing services related to the common elements.

2. The declarant is not required to deliver to the association any property related to the hotel unit or the shared components.

Sec. 91. *1. If a condominium hotel is developed in separate phases and any declarant or successor declarant is constructing any common elements that will be added to the association's common elements after the date on which the units' owners other than the declarant may elect a majority of the members of the executive board, the declarant or its successors or assigns who is constructing such additional common elements is responsible for:*

(a) Paying all expenses related to the additional common elements which are incurred before the conveyance of the additional common elements to the association; and

(b) Except as otherwise provided by section 90 of this act, delivering to the association that declarant's share of the amount specified in the study of the reserves completed pursuant to subsection 2.

2. Before conveying the additional common elements to the association, the declarant or successor declarant who constructed the additional common elements shall deliver to the association a study of the reserves for the

additional common elements which satisfies the requirements of section 117 of this act.

3. As used in this section, "successor declarant" includes, without limitation, any successor declarant who does not control the association established by the initial declarant.

Sec. 92. *1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the hotel unit owner the amount of the converted shared component reserve deficit allocated to that unit.*

2. The allocation to a unit of the amount of any converted shared component reserve deficit must be made in the same manner as liability for shared expenses is allocated to that unit.

3. As used in this section, "converted shared component reserve deficit" means the amount necessary to replace the major components of the shared components needing replacement within 10 years after the date of the first sale of a unit.

Sec. 93. *1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted common element reserve deficit allocated to that unit.*

2. The allocation to a unit of the amount of any converted common element reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted common element reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first sale of a unit.

Sec. 94. *1. A special declarant's right created or reserved under this chapter may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the condominium hotel is located. The instrument is not effective unless executed by the transferee.*

2. Upon transfer of any special declarant's right, the liability of a transferor declarant is as follows:

(a) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranties imposed upon him by this chapter. Lack of privity does not deprive any unit's owner of standing to maintain an action to enforce any obligation of the transferor.

(b) If a successor to any special declarant's right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the condominium hotel.

(c) If a transferor retains any special declarant's rights, but transfers other special declarant's rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant's rights and arising after the transfer.

(d) A transferor has no liability for any act or omission or any breach of a contractual obligation or warranty arising from the exercise of a special declarant's right by a successor declarant who is not an affiliate of the transferor.

3. Unless otherwise provided in a mortgage, deed of trust or other agreement creating a security interest, in case of foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership, of any units owned by a declarant or real estate in a condominium hotel subject to developmental rights, a person acquiring title to all the property being foreclosed or sold, but only upon his request, succeeds to all special declarant's rights related to that property held by that declarant, or only to any rights reserved in the declaration pursuant to this chapter and held by that declarant to maintain models, offices for sales and signs. The judgment or instrument conveying title must provide for transfer of only the special declarant's rights requested.

4. Upon foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale or sale under the Bankruptcy Code or a receivership of all interests in a condominium hotel owned by a declarant:

(a) The declarant ceases to have any special declarant's rights; and

(b) The period of declarant's control terminates unless the judgment or instrument conveying title provides for transfer of all special declarant's rights held by that declarant to a successor declarant.

Sec. 95. *The liabilities and obligations of a person who succeeds to special declarant's rights are as follows:*

1. A successor to any special declarant's right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or by the declaration.

2. A successor to any special declarant's right, other than a successor described in subsection 3 or 4 or a successor who is an affiliate of a declarant, is subject to the obligations and liabilities imposed by this chapter or the declaration:

(a) On a declarant which relate to the successor's exercise or nonexercise of special declarant's rights; or

(b) On his transferor, other than:

(1) Misrepresentations by any previous declarant;

(2) Warranties on improvements made by any previous declarant, or made before the condominium hotel was created;

(3) Breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or

(4) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

3. A successor to only a right reserved in the declaration to maintain models, offices for sales and signs, may not exercise any other special

declarant's right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement and any liability arising as a result thereof.

4. A successor to all special declarant's rights held by a transferor who succeeded to those rights pursuant to a deed or other instrument of conveyance in lieu of foreclosure or a judgment or instrument under subsection 3 of section 94 of this act may declare in a recorded instrument the intention to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant's rights to any person acquiring title to any unit or real estate subject to developmental rights owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his transferor to control the executive board in accordance with section 87 of this act for the duration of any period of declarant's control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant's rights under this subsection, the successor declarant is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under section 87 of this act.

Sec. 96. *Sections 94 and 95 of this act do not subject any successor to a special declarant's right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter or the declaration.*

Sec. 97. *1. The bylaws of the association must provide:*

(a) The number of members of the executive board and the titles of the officers of the association;

(b) For election by the executive board of a president, treasurer, secretary and any other officers of the association the bylaws specify;

(c) The qualifications, powers and duties, terms of office and manner of electing and removing officers of the association and members of the executive board and filling vacancies;

(d) Which powers, if any, that the executive board or the officers of the association may delegate to other persons, including a community manager;

(e) Which of its officers may prepare, execute, certify and record amendments to the declaration on behalf of the association;

(f) Procedural rules for conducting meetings of the association;

(g) A method for amending the bylaws; and

(h) Procedural rules for conducting elections.

2. Except as otherwise provided in the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.

3. The bylaws must be written in plain English.

4. The bylaws must not attempt to exercise any control over the shared components or the hotel unit.

Sec. 98. *The rules adopted by an association, if any:*

1. Must be reasonably related to the duties of the association.

2. Must be sufficiently explicit in their prohibition, direction or limitation to inform a person of any action or omission required for compliance.

3. Must not be adopted to evade any obligation of the association.

4. Must be consistent with the governing documents of the association and must not arbitrarily restrict conduct or require the construction of any capital improvement by a unit's owner that is not required by the governing documents of the association.

5. Must be uniformly enforced under the same or similar circumstances against all units' owners. Any rule that is not so uniformly enforced may not be enforced against any unit's owner.

6. May be enforced by the association through the imposition of a fine only if the association complies with the requirements set forth in section 85 of this act for levying fines.

7. Must not attempt to exercise any control over the shared components or the hotel unit.

Sec. 99. *1. Except to the extent provided by the declaration or this chapter, the association is responsible for maintenance, repair and replacement of the common elements, and each unit's owner is responsible for maintenance, repair and replacement of his unit. Each unit's owner shall afford to the association and the other units' owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted by a residential unit owner on the common elements, hotel unit or on any unit through which access is taken, the residential unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.*

2. Except to the extent provided by the declaration, the hotel unit owner is responsible for the maintenance, repair and replacement of the hotel unit and the shared components.

Sec. 100. *1. A meeting of the units' owners must be held ~~[as]~~ :*

(a) As required by the declaration ~~[.]~~ ; and

(b) At least once each year.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to section 89 of this act. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal

election, the secret written ballots for the removal election must be sent in the manner required by section 89 of this act not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the condominium hotel is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. The hotel unit owner or his designated agent shall attend the annual meeting of the units' owners to present a written report concerning the status of the current year's budget for the shared expenses and discuss any material issues that will affect the preparation of the next year's budget for shared expenses.

13. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the condominium hotel;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 101. *1. A meeting of the executive board must be held at least once a year.*

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than ~~[10]~~ 30 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the condominium hotel or to any other mailing address designated in writing by the unit's owner; or

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner . ~~[; or~~

~~(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.]~~

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the condominium hotel. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the condominium hotel or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of section 100 of this act. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every year, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

8. Except as otherwise provided in subsection 9 and section 102 of this act, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) The names of those members of the executive board who were present and of those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the condominium hotel is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the condominium hotel;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 102. *1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.*

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; and

(b) Is not entitled to attend the deliberations of the executive board.

5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

6. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 103. *1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association,*

the executive board shall, if action is required by the executive board, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if action is required by the executive board, the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

Sec. 104. *1. The association shall provide written notice to each unit's owner of a meeting at which the commencement of a civil action is to be considered at least 21 calendar days before the date of the meeting. Except as otherwise provided in this subsection, the association may commence a civil action only upon a vote or written agreement of the owners of units to which at least a majority of the votes of the members of the association are allocated. The provisions of this subsection do not apply to a civil action that is commenced:*

(a) To enforce the payment of an assessment;

(b) To enforce the declaration, bylaws or rules of the association;

(c) To enforce a contract with a vendor;

(d) To proceed with a counterclaim; or

(e) To protect the health, safety and welfare of the members of the association. If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the action must be ratified within 90 days after the commencement of the action by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated. If the association, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify such a civil action, the association may thereafter seek to dismiss the action without prejudice for that reason only if a vote of written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated was obtained at the time the approval to commence or ratify the action was sought.

2. At least 10 days before an association commences or seeks to ratify the commencement of a civil action, the association shall provide a written statement to all the units' owners that includes:

(a) A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;

(b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and

(c) All disclosures that are required to be made upon the sale of the property.

3. No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.

4. If any civil action in which the association is a party is settled, the executive board shall disclose the terms and conditions of the settlement at the next regularly scheduled meeting of the executive board after the settlement has been reached. The executive board may not approve a settlement which contains any terms and conditions that would prevent the executive board from complying with the provisions of this subsection.

Sec. 105. *1. Except as otherwise provided in this section and section 88 of this act, and except when the governing documents provide otherwise, a quorum is present throughout any meeting of the association if the number of members of the association who are present in person or by proxy at the beginning of the meeting equals or exceeds 20 percent of the total number of voting members of the association.*

2. If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days after the date of the meeting. At the subsequent meeting:

(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and

(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.

➥ The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.

3. Unless the governing documents specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast 50 percent of the votes on that board are present at the beginning of the meeting.

Sec. 106. *1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a*

majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to that unit without protest made promptly to the person presiding over the meeting by any of the other owners of the unit.

2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the condominium hotel, the hotel unit owner or another unit's owner who resides in the condominium hotel. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

3. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed.

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.

4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.

5. A vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association.

6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.

8. If the declaration requires that votes on specified matters affecting the condominium hotel must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in this chapter, of all meetings at which the lessees are entitled to vote.

9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 107. *Neither the association nor any unit's owner except the declarant or hotel unit owner, as applicable, is liable for that declarant's or hotel unit owner's torts in connection with any part of the condominium hotel which that declarant or hotel unit owner, as applicable, owns or has the responsibility to maintain. Otherwise, an action alleging a wrong done by the association must be brought against the association and not against any unit's owner. If the wrong occurred during any period of declarant's control over the association and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit's owner for all tort losses not covered by insurance suffered by the association or that unit's owner, and all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the declarant is liable to the association under this section, the declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the association. Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant's control terminates. A unit's owner is not precluded from maintaining an action contemplated by this section because he is a unit's owner or a member or officer of the association.*

Sec. 108. *1. Portions of the common elements of a condominium hotel may be conveyed or subjected to a security interest by the association if persons entitled to cast at least a majority of the votes in the association or any larger percentage otherwise specified in the declaration agree to such action. All owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. Proceeds of the sale are an asset of the association.*

2. An agreement to convey or subject common elements in a condominium hotel to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium hotel is situated, and is effective only upon recordation.

3. The association, on behalf of the units' owners, may contract to convey an interest in the common elements pursuant to subsection 1, but the contract is not enforceable against the association until approved pursuant to subsections 1 and 2. Upon approval, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

4. Unless made pursuant to this section, any purported conveyance, encumbrance, judicial sale or other voluntary transfer of common elements is void.

5. A conveyance or encumbrance of common elements pursuant to this section does not deprive any unit of its rights of access and support.

6. Unless the declaration otherwise provides, a conveyance or encumbrance of common elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

Sec. 109. *1. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, and unless the declaration states otherwise, the association shall maintain, to the extent reasonably available, both of the following:*

(a) Property insurance on the common elements insuring against all risks of direct physical loss commonly insured against in an amount specified in the declaration.

(b) Liability insurance on the common elements, including insurance for medical payments, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

2. Commencing not later than the time of the first conveyance of a residential unit to a person other than the declarant, and unless the declaration states otherwise, the hotel unit owner shall maintain, to the extent reasonably available, the following:

(a) Property and casualty insurance on the residential units, hotel unit and shared components insuring against all risks of direct physical loss commonly insured against in an amount specified in the declaration. An insurance policy issued to the hotel unit owner does not prevent a unit's owner from obtaining insurance for his own benefit.

(b) Liability insurance on the residential units, hotel unit and shared components, including insurance for medical payments, in an amount set forth in the declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the residential units, shared components or the hotel unit.

Sec. 110. *Insurance policies carried pursuant to this chapter must provide to the extent reasonably available that:*

1. Each unit's owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;

2. The insurer waives its right to subrogation under the policy against any unit's owner or member of his household;

3. No act or omission by any unit's owner, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and

4. If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy or the hotel unit owners' policy, as applicable, provides primary insurance.

Sec. 111. *1. Unless the declaration states otherwise, with respect to repair or replacement of all or any portion of the hotel condominium after fire or other casualty, any portion of the condominium hotel for which insurance is required under section 109 of this act which is damaged or destroyed must be repaired or replaced promptly by the association* or the hotel unit owner *unless:*

(a) The condominium hotel is terminated pursuant to the provisions of this chapter;

(b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(c) The declarant or hotel unit owner, as applicable, and the residential unit owners representing at least 80 percent of the total voting power in the association vote that the damaged or destroyed portion of the hotel condominium not be rebuilt.

2. If a determination is made to effect repair or restoration of the damaged or destroyed portion of the condominium hotel, the insurance proceeds of all insurance policies required to be maintained under section 109 of this act that are attributable to the damaged or destroyed portion of the condominium hotel must be disbursed to the contractors engaged in such repair or restoration in appropriate installment payments, and any proceeds that are in excess of the amounts reasonably necessary to effect repair or restoration must be disbursed:

(a) As to the residential units or common elements, to the ~~[unit]~~ units' owners in proportion to their assessments for common expenses.

(b) As to any portion of the shared components or the hotel unit, to the hotel unit owner.

3. If a determination is made not to effect repair or restoration of the damaged portion of the condominium hotel:

(a) The insurance proceeds attributable to units, shared components or common elements that are not rebuilt must be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear; and

(b) The remainder of the proceeds must be distributed:

(1) As to the residential units or common elements, to the ~~[unit]~~ units' owners in proportion to their assessments for common expenses.

(2) As to any portion of the shared components or the hotel unit, to the hotel unit owner.

Sec. 112. *1. The Commission shall adopt regulations prescribing the requirements for the preparation and presentation of financial statements of an association pursuant to this chapter.*

2. The regulations adopted by the Commission must include, without limitation:

(a) The qualifications necessary for a person to prepare and present financial statements of an association; and

(b) The standards and format to be followed in preparing and presenting financial statements of an association.

Sec. 113. *1. Except as otherwise provided in subsection 2, the executive board shall:*

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; and

(b) The standards and format to be followed in auditing or reviewing financial statements of an association.

Sec. 114. *1. Until the association makes an assessment for common expenses for the common elements, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in this*

chapter. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to section 66 of this act.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary.

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. To the extent required by the declaration:

(a) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(b) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the condominium hotel at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

8. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 115. *1. The hotel unit owner may charge all residential units in the condominium hotel:*

(a) Shared expenses for the operation, maintenance and insurance of the hotel unit, shared components and the residential units;

(b) Costs for the establishment of reasonable reserve funds for the repair or replacement of the major components of the shared components ~~[;]~~ *or the major components of the hotel unit;*

(c) Costs for the establishment of reasonable reserve funds for the maintenance, repair and replacement of the hotel unit or shared components;

(d) Charges for capital improvement;

(e) Charges that the declarant or hotel unit owner, as applicable, establishes in the declaration to offset the burden on the shared components or hotel unit as a result of transient rentals; and

(f) All other charges lawfully imposed by the declarant in connection with the repair, replacement, improvement, maintenance, management, operation and insurance of the shared components.

2. All shared expenses, including the reserves, must be charged against all the residential units in accordance with the allocated liability for shared expenses set forth in the declaration pursuant to this chapter.

3. The shared expenses must be imposed on a calendar-year basis and must be payable by the residential unit owners in monthly, quarterly, semiannual or annual installments as required in the declaration.

4. The ~~[declarant or]~~ hotel unit owner ~~[, as applicable,]~~ shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the shared components ~~[.]~~ or the major components of the hotel unit. The reserves may be used only for repair, replacement and restoration of the major components of the shared components ~~[,]~~ or the major components of the hotel unit and must not be used for daily maintenance. The ~~[declarant]~~ hotel unit owner may comply with the provisions of this subsection through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the shared components or the major components of the hotel unit over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the shared components or the major components of the hotel unit is necessary.

5. Any past due assessment authorized pursuant to this section bears interest at the rate established by the declaration but not to exceed 18 percent per year.

6. Payment of shared expenses by a residential unit owner does not entitle that owner to ownership or control over the hotel unit or the shared components.

7. The hotel unit owner shall provide a copy of the next year's budget for projected shared expenses described in subsection 1 to all units' owners at least 20 days before the date on which the hotel unit owner actually imposes any charges set forth in the next year's budget.

Sec. 116. *1. Except as otherwise provided in subsection 2 and unless the declaration of a condominium hotel imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year, prepare and distribute to each unit's owner a copy of:*

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by section 115 of this act. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by section 117 of this act.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the condominium hotel is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the association of the condominium hotel, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

Sec. 117. *1. The executive board shall:*

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repair, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

Sec. 118. *1. The hotel unit owner shall:*

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the shared components ~~*[,]*~~ *and the major components of the hotel unit;*

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the charges ~~*[for shared components which is]*~~ *deemed necessary to provide adequate funding for the required reserves* . ~~*[for shared components.]*~~

2. The study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the shared components ~~*[,]*~~ *and the major components of the hotel unit;*

(b) An identification of the major components of the shared components and the major components of the hotel unit that have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the shared components and each major component of the hotel unit identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the shared components and each major component of the hotel unit identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual charge that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the shared components and the major components of the hotel unit identified pursuant to paragraph (b), after subtracting the reserves for shared components and the hotel unit as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

Sec. 119. *Money in the reserve account of an association required by section 114 of this act may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.*

Sec. 120. *1. Except as otherwise provided in subsection 2, an association shall:*

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed $3 per unit.

3. The Division shall impose an administrative penalty against an association that violates the provisions of this section by failing to pay the fees owed by the association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or $500, whichever amount is less. The amount of the unpaid fees owed by the association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

4. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

Sec. 121. *Each association shall, at the time it pays the fee required by section 120 of this act, register with the Ombudsman on a form prescribed by the Ombudsman.*

Sec. 122. *1. The association or the hotel unit owner, as applicable, has a lien on a unit for any assessment or charge, including assessments for common expenses and charges for shared expenses or other charges of the hotel unit owner, authorized by this chapter that is levied against that unit or any fines imposed against the unit's owner from the time the assessment, charge or fine becomes due. If an assessment is payable in installments, the full amount of the assessment or charge is a lien from the time the first installment thereof becomes due.*

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent;

(c) Liens for real estate taxes and other governmental assessments or charges against the unit; and

(d) Mechanics' or materialmen's liens.

3. Unless the declaration otherwise provides, if the association and the hotel unit owner both have liens for assessments or charges created at any time on the same property, the priority of those liens is governed by Nevada law.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment or charge under this section is required.

5. A lien for unpaid assessments or charges is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments or charges become due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association ~~[, the declarant]~~ or the hotel unit owner, as applicable, from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association or the hotel unit owner, as applicable, upon written request, shall furnish to a residential unit owner a statement setting forth the amount of unpaid assessments or charges against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments or charges may be foreclosed under this chapter, the statement must be in recordable form. The statement must be furnished within 10 business days

after receipt of the request and is binding on the association or the declarant, as applicable, and every unit's owner.

Sec. 123. *1. Except as otherwise provided in subsection 4, in a condominium hotel, the association or hotel unit owner, as applicable, may foreclose its lien by sale after all of the following occur:*

(a) The association or hotel unit owner, as applicable, has mailed by certified or registered mail, return receipt requested, to the residential unit owner or his successor in interest, at his address if known and at the address of the residential unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due, a description of the residential unit against which the lien is imposed and the name of the record owner of the residential unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment or charge pursuant to paragraph (a), the association or hotel unit owner, as applicable, has executed and caused to be recorded, with the county recorder of the county in which the condominium hotel or any part of it is situated, a notice of default and election to sell the residential unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association, the declarant or hotel unit owner, as applicable, to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The residential unit owner or his successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association or hotel unit owner, as applicable, for that purpose.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the residential unit owner or his successor in interest at his address, if known, and at the address of the residential unit,

➥ whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the condominium hotel; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to this chapter.

Sec. 124. *The association or hotel unit owner, as applicable, shall also mail, within 10 days after the notice of default and election to sell is recorded, a copy of the notice by first-class mail to:*

1. Each person who has requested notice pursuant to NRS 107.090 or section 128 of this act;

2. Any holder of a recorded security interest encumbering the residential unit owner's interest who has notified the association or hotel unit owner, as applicable, 30 days before the recordation of the notice of default, of the existence of the security interest; and

3. A purchaser of the residential unit, if the residential unit owner has notified the association or hotel unit owner, as applicable, 30 days before the recordation of the notice, that the residential unit is the subject of a contract of sale and the association has been requested to furnish the certificate required by section 147 of this act.

Sec. 125. *1. The association or hotel unit owner, as applicable, shall also, after the expiration of the 90 days and before selling the unit:*

(a) Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that in lieu of following the procedure for service on a judgment debtor pursuant to NRS 21.130, service must be made on the residential unit owner as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the residential unit owner or his successor in interest at his address, if known, and to the address of the residential unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

(b) Mail, on or before the date of first publication or posting, a copy of the notice by first-class mail to:

(1) Each person entitled to receive a copy of the notice of default and election to sell notice under section 124 of this act;

(2) The holder of a recorded security interest or the purchaser of the residential unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(3) The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the residential unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the residential unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; and

(b) The following warning in 14-point bold type:

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and telephone number of the contact person for the association ~~[, declarant,]~~ or hotel unit owner). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (toll-free telephone number designated by the Division) IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United State Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the residential unit.

Sec. 126. *1. The sale must be conducted in the county in which the condominium hotel or part of it is situated, and may be conducted by the association or hotel unit owner, as applicable, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State, except that the sale may be made at the office of the association or hotel unit owner, as applicable, if the notice of the sale so provided . ~~[, whether or not the residential unit is located within the same county as the office of the association or the hotel unit.]~~ The association or hotel unit owner, as applicable, may, from time to time, postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale.*

2. On the day of sale originally advertised or to which the sale is postponed, at the time and place specified in the notice or postponement, the person conducting the sale may sell the residential unit at public auction to the highest cash bidder. Unless otherwise provided in the declaration or by

agreement, the association or hotel unit owner may purchase the residential unit and hold, lease, mortgage or convey it. The association or hotel unit owner, as applicable, may purchase by a credit bid up to the amount of the unpaid assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.

3. After the sale, the person conducting the sale shall:

(a) Make, execute and, after payment is made, deliver to the purchaser, or his successor or assign, a deed without warranty which conveys to the grantee all title of the residential unit owner to the unit;

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his successor or assign; and

(c) Apply the proceeds of the sale for the following purposes in the following order:

(1) The reasonable expenses of sale;

(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the residential unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association or the hotel unit owner, as applicable;

(3) Satisfaction of the association's or hotel unit owner's lien, as applicable;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

Sec. 127. *1. The recitals in a deed of a foreclosed unit made pursuant to section 126 of this act of:*

(a) Default, the mailing of the notice of delinquent assessment or charge, and the recording of the notice of default and election to sell;

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

➥ *are conclusive proof of the matters recited.*

2. Such a deed containing those recitals is conclusive against the residential unit's former owner, his heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. The sale of a residential unit pursuant to the foreclosure procedures of this chapter vests in the purchaser the title of the unit's owner without equity or right of redemption.

Sec. 128. *1. The provisions of NRS 107.090 apply to the foreclosure of lien of an association or hotel unit owner, as applicable, as if a deed of trust were being foreclosed. The request must identify the lien by stating the names of the unit's owner and the condominium hotel.*

2. An association or hotel unit owner, as applicable, may, after recording a notice of default and election to sell, waive the default and withdraw the notice or any proceeding to foreclose. The association or hotel unit owner, as applicable, is thereupon restored to its former position and has the same rights as though the notice had not been recorded.

Sec. 129. *1. Except as otherwise provided in subsection 2, a judgment for money against the association, if a copy of the docket or an abstract or copy of the judgment is recorded, is not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of the units in the condominium hotel at the time the judgment was entered. No other property of a unit's owner or the declarant is subject to the claims of creditors of the association.*

2. If the association has granted a security interest in the common elements to a creditor of the association pursuant to section 108 of this act, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.

3. Whether perfected before or after the creation of the condominium hotel, if a lien, other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the condominium hotel, becomes effective against two or more units, the owner of an affected unit may pay to the lienholder the amount of the lien attributable to his unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that unit. The amount of the payment must be proportionate to the ratio which that owner's liability for common expenses bears to the liabilities for common expenses of all owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that owner's unit for any portion of the common expenses incurred in connection with that lien.

4. A judgment against the association must be indexed in the name of the condominium hotel and the association and, when so indexed, is notice of the lien against the units.

Sec. 130. *1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:*

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine, the general record must specify the amount of the fine.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

Sec. 131. *The hotel unit owner shall maintain financial books and records showing its actual receipts and expenditures with respect to the repair, replacement, improvement, maintenance, management, operation, tax obligations and insurance of the shared components ~~[and]~~ , the major components of the shared components ~~[,]~~ and the major components of the hotel unit, including the budget for the current year, any proposed budget for future years and the study of reserves ~~[for shared components]~~ required by section ~~[117]~~ 118 of this act. These records ~~[may, but need not,]~~ must be audited or reviewed by a certified public accountant. The hotel unit owner shall make these records available for inspection by any residential unit owner by prior appointment during reasonable business hours. These records must be retained for 3 years after the conclusion of each fiscal year.*

Sec. 132. *1. The executive board of an association shall maintain and make available for review at the business office of the association or some other suitable location within the county where the condominium hotel is situated or, if it is situated in more than one county, within one of those counties:*

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to section 114 of this act; and

(c) The study of the reserves of the association required to be conducted pursuant to section 117 of this act.

2. The executive board shall provide a copy of any of the records required to be maintained pursuant to subsection 1 to a unit's owner or the Ombudsman within 14 days after receiving a written request therefor. The executive board may charge a fee to cover the actual costs of preparing a copy, but not to exceed 25 cents per page.

Sec. 133. *1. The association shall keep financial records sufficiently detailed to enable the association to comply with all of the requirements of this chapter.*

2. All financial and other records of the association must be:

(a) Maintained and made available for review at the business office of the association or some other suitable location within the county where the condominium hotel is situated or, if it is situated in more than one county, within one of those counties; and

(b) Made reasonably available for any unit's owner and his authorized agents to inspect, examine, photocopy and audit.

Sec. 133.5. A hotel unit owner, an executive board, a member of an executive board or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

1. Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association; or

2. Requested in good faith to review the books, records or other papers of the association.

Sec. 134. *1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:*

(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association or a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable condominium hotel or association which

total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a condominium hotel or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:

(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to this chapter for violations of the governing documents of the association; or

(b) Any percentage or proportion of those fines.

6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:

(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers adopted by the Commission pursuant to NRS 116A.400;

(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the association of the condominium hotel; and

(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.

Sec. 135. *1. Except as otherwise provided in this section, a member of an executive board, an officer of an association or a community manager shall not:*

(a) Enter into a contract or renew a contract with the association to provide goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 136. *With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.*

Sec. 137. *1. Except as otherwise provided in subsection 2, the executive board of an association shall not and the governing documents of that association must not prohibit a unit's owner from engaging in the display of the flag of the United States within such physical portion of the condominium hotel as that owner has a right to occupy and use exclusively.*

2. The provisions of this section do not:

(a) Apply to the display of the flag of the United States for commercial advertising purposes.

(b) Preclude the hotel unit owner or an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the placement and manner of the display of the flag of the United States by a unit's owner.

(c) Preclude the hotel unit owner or an association from adopting, and do not preclude the declaration of the governing documents of an association from setting forth, rules restricting or prohibiting the placement by any person of other signs, symbols or flags within any portion of the condominium hotel.

3. In any action commenced to enforce the provisions of this section, the prevailing party is entitled to recover reasonable attorney's fees and costs.

4. As used in this section, "display of the flag of the United States" means a flag of the United States that is:

(a) Made of cloth, fabric or paper;

(b) Displayed from a pole or staff or in a window; and

(c) Displayed in a manner that is consistent with 4 U.S.C. Chapter 1.

➥ *The term does not include a depiction or emblem of the flag of the United States that is made of balloons, flora, lights, paint, paving materials, roofing, siding or any other similar building, decorative or landscaping component.*

Sec. 138. *1. The executive board shall not and the governing documents must not prohibit a unit's owner or an occupant of a unit from exhibiting a political sign within such physical portion of the condominium hotel as that owner or occupant has a right to occupy and use exclusively if the political sign is not larger than 24 inches by 36 inches.*

2. The provisions of this section establish the minimum rights of a unit's owner or an occupant of a unit to exhibit a political sign. The provisions of this section do not preempt any provisions of the governing documents that provide greater rights and do not require the governing documents or the executive board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.

3. As used in this section, "political sign" means a sign that expresses support for or opposition to a candidate, political party or ballot question.

Sec. 139. *1. Except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.*

2. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

Sec. 140. *1. Except as otherwise provided in this section, sections 140 to 152, inclusive, of this act apply to all condominium hotels.*

2. Neither a public offering statement nor a certificate of resale need be prepared or delivered in the case of a:

(a) Gratuitous disposition of a unit;

(b) Disposition pursuant to court order;

(c) Disposition by a government or governmental agency;

(d) Disposition by foreclosure or deed in lieu of foreclosure;

(e) Disposition to a dealer;

(f) Disposition that may be cancelled at any time and for any reason by the purchaser without penalty; or

(g) Disposition of a unit not used for residential use.

Sec. 141. *1. Except as otherwise provided in subsection 2, a declarant, before offering any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of sections 142, 143 and 144 of this act.*

2. A declarant may transfer responsibility for the preparation of all or a part of the public offering statement to a successor declarant, the hotel unit owner or to a dealer who intends to offer units in the condominium hotel. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection 1.

3. Any declarant or dealer who offers a unit to a purchaser shall deliver a public offering statement in the manner prescribed in section 146 of this act. The declarant or his transferee is liable for any false or misleading statement set forth therein or for any omission of a material fact therefrom with respect to that portion of the public offering statement which he prepared. If a declarant or dealer did not prepare any part of a public offering statement that he delivers, he is not liable for any false or misleading statement set forth therein or for any omission of a material fact therefrom unless he had actual knowledge of the statement or omission or, in the exercise of reasonable care, should have known of the statement or omission.

4. If a unit is part of a condominium hotel and is part of any other real estate in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of this chapter, as those requirements relate to the real estate in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing two or more public offering statements. If the requirements of this chapter conflict with those of another law of this State, the requirements of this chapter prevail.

Sec. 142. *1. Except as otherwise provided in this chapter, a public offering statement must set forth or fully and accurately disclose each of the following:*

(a) The name and principal address of the declarant , the hotel unit owner and of the condominium hotel.

(b) A general description of the condominium hotel, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the condominium hotel [.] , including the shared components.

(c) The estimated number of units in the condominium hotel.

(d) Copies of this chapter, the declaration, bylaws, and any rules or regulations of the association [,] or hotel unit owner, but a plat or plan is not required.

(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to this chapter; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to this chapter.

(f) The projected budget for the shared expenses, either within or as an exhibit to the public offering statement. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to this chapter;

(2) The projected monthly shared expenses for each type of unit, including the amount established as reserves pursuant to this chapter; and

(3) A description of any other payments, fees and charges that may be charged by the hotel unit owner in order to offset the increased burden placed on the shared components due to use of residential units as transient rentals.

(g) After the date of the first conveyance of a residential unit to a purchaser, a current year-to-date statement of the shared expenses charged to the units.

(h) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant or the hotel unit owner not reflected in the budget.

(i) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(j) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(k) A statement that ~~[unless the purchaser or his agent has personally inspected the unit,]~~ the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(l) A statement of any unsatisfied judgments or pending suits against the association ~~[,]~~ or the hotel unit owner, and the status of any pending suits material to the condominium hotel of which a declarant has actual knowledge.

(m) Any current or expected fees or charges to be paid by residential unit owners for the use of the shared components , the hotel unit or the common elements and other facilities related to the condominium hotel.

(n) The information statements required by this chapter.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of sections 142 and 143 of this act) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 143. *If the declaration provides that a condominium hotel is subject to any developmental rights, the public offering statement must disclose, in addition to the information required by section 142 of this act:*

1. The maximum number of units that may be created;

2. A statement of how many or what percentage of the units that may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding restrictions of use;

3. A statement of the extent to which any buildings or other improvements that may be erected pursuant to any developmental right in any part of the condominium hotel will be compatible with existing buildings and improvements in the condominium hotel in terms of architectural style, quality of construction, and size, or a statement that no assurances are made in those regards;

4. General descriptions of all other improvements that may be made and limited common elements that may be created within any part of the condominium hotel pursuant to any developmental right reserved by the declarant, or a statement that no assurances are made in that regard;

5. A statement of any limitations as to the locations of any building or other improvement that may be constructed or made within any part of the condominium hotel pursuant to any developmental right reserved by the declarant, or a statement that no assurances are made in that regard;

6. A statement that any limited common elements created pursuant to any developmental right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the condominium hotel, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard;

7. A statement that the proportion of limited common elements to units created pursuant to any developmental right reserved by the declarant will be approximately equal to the proportion existing within other parts of the condominium hotel, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;

8. A statement that all restrictions in the declaration affecting use, occupancy and alienation of units will apply to any units created pursuant to any developmental right reserved by the declarant, or a statement of any differentiations that may be made as to those units, or a statement that no assurances are made in that regard; and

9. A statement of the extent to which any assurances made pursuant to this section apply or do not apply if any developmental right is not exercised by the declarant.

Sec. 144. *The public offering statement of a condominium hotel involving a converted building must contain, in addition to the information required pursuant to section 143 of this act:*

1. A statement by the declarant, based on a report prepared by an independent registered architect or licensed professional engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the building.

2. A list of any outstanding notices of uncured violations of applicable building codes or other municipal regulations, in addition to the estimated cost of curing such violations.

3. The budget to maintain the reserves required pursuant to subsection 2 of section 114 of this act and subsection 1 of section 115 of this act, which must include, without limitation:

(a) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the shared components , each major component of the hotel unit and major components of the common elements, if any.

(b) As of the end of the fiscal year for which the budget was prepared, the current estimate of the amount of cash reserves that are necessary to repair, replace and restore the major components of the shared components , major components of the hotel unit and major components of the common elements, if any, and the current amount of accumulated cash reserves that are set aside for such repairs, replacements and restorations.

(c) A statement as to whether the declarant has determined or anticipates that the levy of one or more special shared expense charges or special assessments, as applicable, will be required within the next 10 years to repair, replace and restore any major component of the shared components ~~[and]~~ , major component of the hotel unit or major ~~[components]~~ component of the common elements, if any, or to provide adequate reserves for that purpose.

(d) A general statement describing the procedures used for the estimation and accumulation of cash reserves described in paragraph (b), including, without limitation, the qualifications of the person responsible for the preparation of the study of reserves required pursuant to sections 117 and 118 of this act.

(e) The funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the shared components , major components of the hotel unit and major components of the common elements, if any, over a period of years.

Sec. 145. *If an interest in a condominium hotel is currently registered with the Securities and Exchange Commission of the United States or with the State of Nevada pursuant to chapter 119, 119A or 119B of NRS, a declarant satisfies all requirements of this chapter relating to the preparation of a public offering statement if he delivers to the purchaser a copy of the public offering statement filed with the Securities and Exchange Commission or the appropriate Nevada regulatory authority. An interest in a condominium hotel is not a security under the provisions of chapter 90 of NRS.*

Sec. 146. *1. A person required to deliver a public offering statement pursuant to subsection 3 of section 141 of this act shall provide a purchaser with a copy of the current public offering statement not later than the date on which an offer to purchase becomes binding on the purchaser. ~~[Unless the purchaser has personally inspected the unit, the]~~ The purchaser may cancel, by written notice, the contract of purchase until midnight of the fifth calendar*

day following the date of execution of the contract, and the contract for purchase must contain a provision to that effect.

2. If a purchaser elects to cancel a contract pursuant to subsection 1, he may do so by hand delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to his agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly.

3. If a person required to deliver a public offering statement pursuant to subsection 3 of section 141 of this act fails to provide a purchaser to whom a unit is conveyed with a current public offering statement, the purchaser is entitled to actual damages, rescission or other relief, but if the purchaser has accepted a conveyance of the unit, he is not entitled to rescission.

Sec. 147. *1. Except in the case of a sale in which delivery of a public offering statement is required, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:*

(a) A copy of this chapter, the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the hotel unit owner and the information statement required by section 148 of this act;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by this chapter;

(d) A current year-to-date statement of the shared expenses charged to the units and the projected budget for the shared expenses, either within or as an exhibit to the public offering statement. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to this chapter;

(2) The projected monthly shared expenses for each type of unit, including the amount established as reserves pursuant to this chapter;

(e) A description of any other payments, fees and charges that may be charged by the hotel unit owner , including those that may be charged in order to offset the increased burden placed on the shared components as a result of use of residential units as transient rentals; and

(f) A statement of any unsatisfied judgments or pending legal actions against the association or the hotel unit owner which affect the shared components and the status of any pending legal actions relating to the condominium hotel of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to

the residential unit owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the residential unit owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the residential unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the residential unit owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a residential unit owner or his authorized agent, the hotel unit owner shall furnish all of the following to the residential unit owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the residential unit owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the hotel unit owner furnishes the documents and certificate pursuant to subsection 3:

(a) The residential unit owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the residential unit owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the hotel unit owner and included in the documents and certificate.

(b) The hotel unit owner may charge the residential unit owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that ~~[an association]~~ the hotel unit owner may charge for preparing the certificate.

(c) The hotel unit owner may charge the residential unit owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the hotel unit owner may not charge the residential unit owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a residential unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the hotel unit owner. If the hotel unit owner fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a residential unit owner or his authorized agent, or upon the request of a purchaser to whom the hotel unit owner has provided a resale package pursuant to this section or his authorized agent, the ~~[association]~~ hotel unit owner shall make the entire study of the reserves of the association or the shared components reasonably available for the residential unit owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or the hotel unit owner or some other suitable location within the county where the condominium hotel is situated or, if it is situated in more than one county, within one of those counties.

Sec. 148. *The information statement required by sections 142 and 147 of this act must be in substantially the following form:*

BEFORE YOU PURCHASE PROPERTY IN A CONDOMINIUM HOTEL
DID YOU KNOW...

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a condominium hotel, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see section 146 of this act, if you received a public offering statement, or section 147 of this act if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the condominium hotel, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents

before purchasing to make sure that these limitations and controls are acceptable to you.

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS AND CHARGES FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a condominium hotel, you are responsible for paying your share of expenses relating to the common elements and shared components. The obligation to pay these expenses binds you and every future owner of the property. Owners' fees are usually assessed for these expenses monthly. You have to pay dues whether or not you agree with the way the association or the hotel unit owner is managing the property or spending the assessments or charges. The hotel unit owner executive board of the association may have the power to change and increase the amount of the assessment or charges and to levy special assessments or special charges against your property to meet extraordinary expenses.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS OR CHARGES, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments or charges when due, the hotel unit owner or the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's or hotel unit owner's costs, as applicable, and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many condominium hotels have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common elements of the condominium hotel. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional condominium association managers to carry out these responsibilities.

Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its

executive board are governed by state laws, the CC&Rs and other documents that govern the condominium hotel, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the condominium hotel. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of residential unit in the condominium hotel. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR CONDOMINIUM HOTEL?

The law requires you to provide a prospective purchaser of your property with a copy of the condominium hotel's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to provide a copy of the current year-to-date statement of the shared expenses charged to your unit by the declarant or hotel unit owner, as applicable. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see sections 140 to 152, inclusive, of this act.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A CONDOMINIUM HOTEL THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of this chapter, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the condominium hotel's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a condominium hotel. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials:_____

Date:_____

Sec. 149. *1. Except as otherwise provided in subsections 2 and 3, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of section 141 of this act must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:*

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the

State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

Sec. 150. *1. In the case of a sale of a unit where delivery of a public offering statement is required pursuant to subsection 3 of section 141 of this act, a seller:*

(a) Before conveying a unit, shall record or furnish to the purchaser releases of all liens, except liens on real estate that a declarant has the right to withdraw from the condominium hotel, that the purchaser does not expressly agree to take subject to or assume and that encumber that unit and its interest in the common elements; or

(b) Shall provide a surety bond against the lien as provided for liens on real estate in NRS 108.2413 to 108.2425, inclusive.

2. Before conveying real estate to the association, the declarant shall have that real estate released from:

(a) All liens the foreclosure of which would deprive ~~[unit]~~ units' owners of any right of access to or easement of support of their units; and

(b) All other liens on that real estate unless the public offering statement describes certain real estate that may be conveyed subject to liens in specified amounts.

Sec. 151. *Implied warranties of quality:*

1. May be excluded or modified by agreement of the parties; and

2. Are excluded by expression of disclaimer, such as "as is," "with all faults," or other language that in common understanding calls the purchaser's attention to the exclusion of warranties.

Sec. 151.3. The Commission, or the Administrator with the approval of the Commission, may adopt regulations to require any additional disclosures in the case of a sale of a unit as it deems necessary.

Sec. 151.7. 1. If a declarant, hotel unit owner or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply has a claim for appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in section 107 of this act, a civil action for damages caused by a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant; or

(2) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

3. Punitive damages may be awarded for a willful and material failure to comply with this chapter if the failure is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

5. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

Sec. 152. *In the case of a sale of a unit in which delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, until the declaration is recorded and the unit is substantially completed, in accordance with local ordinances.*

Sec. 153. *The Commission for Common-Interest Communities and Condominium Hotels created by NRS 116.600, the Division and the Director of the Department of Business and Industry have jurisdiction over the enforcement of this chapter as set forth herein.*

Sec. 154. *1. The provisions of this chapter must be administered by the Division, subject to the administrative supervision of the Director of the Department of Business and Industry.*

2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.

3. The Commission, or the Administrator with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.

4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, posted on its website and offered for sale at a reasonable fee.

Sec. 155. *1. Except as otherwise provided in this section and within the limits of legislative appropriations, the Division may employ experts,*

attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to him by the Commission or the Division.

Sec. 156. *The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels created by NRS 116.625 shall:*

1. Assist in processing claims arising under this chapter that are submitted to mediation or arbitration pursuant to NRS 38.300 to 38.360, inclusive;

2. Assist owners in condominium hotels to understand their rights and responsibilities as set forth in this chapter and the governing documents of their associations, including, without limitation, publishing materials related to those rights and responsibilities;

3. Assist members of executive boards and officers of associations to carry out their duties;

4. When appropriate, investigate disputes involving the provisions of this chapter or the governing documents of an association and assist in resolving such disputes; and

5. Compile and maintain a registration of each association organized within the State which includes, without limitation, the following information:

(a) The name, address and telephone number of the association;

(b) The names, mailing addresses and telephone numbers of the members of the executive board of the association;

(c) The name of the declarant;

(d) The number of units in the condominium hotel;

(e) The total annual assessment made by the association; and

(f) The number of foreclosures which were completed on units within the condominium hotel and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner.

Sec. 157. *The Commission and its members, each hearing panel and its members, the Administrator, the Ombudsman, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission and the Division are immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter.*

Sec. 158. *Any notice or other information that is required to be served upon the Commission pursuant to the provisions of this chapter may be delivered to the principal office of the Division.*

Sec. 159. *1. The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. The regulations may include, without limitation, the establishment of fees to pay the costs of conducting business electronically with the Division.*

2. In addition to the process authorized by NRS 719.280, if the Division is conducting business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 to satisfy the legal requirement.

3. The Division may refuse to conduct business electronically with a person who has failed to pay money which the person owes to the Division or the Commission.

Sec. 160. *1. To carry out the purposes of this chapter, the Commission, or any member thereof acting on behalf of the Commission or acting on behalf of a hearing panel, may issue subpoenas to compel the attendance of witnesses and the production of books, records and other papers.*

2. If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why he has not complied with the subpoena. A certified copy must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Commission or any member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 161. *1. Each witness who is subpoenaed and appears at a hearing is entitled to receive for his attendance the same fees and mileage allowed by law to a witness in a civil case.*

2. The fees and mileage for the witness:

(a) Must be paid by the party at whose request the witness is subpoenaed; or

(b) If the appearance of the witness is not requested by any party but the witness is subpoenaed at the request of the Commission or a hearing panel, must be paid by the Division.

Sec. 162. *1. The Commission shall conduct such hearings and other proceedings as are required by the provisions of this chapter.*

2. The Commission shall collect and maintain or cause to be collected and maintained accurate information relating to:

(a) The number of condominium hotels in this State;

(b) The effect of the provisions of this chapter and any regulations adopted pursuant thereto on the development and construction of condominium hotels, the residential lending market for units within condominium hotels and the operation and management of condominium hotels;

(c) Violations of the provisions of this chapter and any regulations adopted pursuant thereto;

(d) The accessibility and use of, and the costs related to, the arbitration and mediation procedures set forth in NRS 38.300 to 38.360, inclusive, and the decisions rendered and awards made pursuant to those arbitration and mediation procedures;

(e) The number of foreclosures which were completed on units within condominium hotels and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner; and

(f) Other issues that the Commission determines are of concern to units' owners, associations, developers and other persons affected by condominium hotels.

3. The Commission shall develop and promote:

(a) Educational guidelines for conducting the elections of the members of an executive board, the meetings of an executive board and the meetings of the units' owners of an association; and

(b) Educational guidelines for the enforcement of the governing documents of an association through liens, penalties and fines.

4. The Commission shall recommend and approve for accreditation programs of education and research relating to condominium hotels, including, without limitation:

(a) The management of condominium hotels;

(b) The sale and resale of units within condominium hotels;

(c) Alternative methods that may be used to resolve disputes relating to condominium hotels; and

(d) The enforcement, including by foreclosure, of liens on units within condominium hotels for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner.

Sec. 163. *The Commission may:*

1. By regulation, establish standards for subsidizing proceedings for mediation and arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive, to ensure that such proceedings are not lengthy and are affordable and readily accessible to all parties;

2. By regulation, establish standards for subsidizing educational programs for the benefit of units' owners, members of executive boards and officers of associations;

3. Accept any gifts, grants or donations; and

4. Enter into agreements with other entities that are required or authorized to carry out similar duties in this State or in other jurisdictions and cooperate with such entities to develop uniform procedures for carrying out the provisions of this chapter and for accumulating information needed to carry out those provisions.

Sec. 164. *1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers.*

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 165. *The Commission or a hearing panel may conduct a hearing by means of an audio or video teleconference to one or more locations if the audio or video technology used at the hearing provides the persons present at each location with the ability to hear and communicate with the persons present at each other location.*

Sec. 166. *As used in sections 167 to 177, inclusive, of this act, unless the context otherwise requires, "violation" means a violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the Commission or a hearing panel.*

Sec. 167. *1. In carrying out the provisions of sections 167 to 177, inclusive, of this act, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:*

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any declarant, affiliate of a declarant or hotel unit owner.

(d) Any unit's owner.

(e) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the

association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 168. *1. The rights, remedies and penalties provided by sections 166 to 177, inclusive, of this act are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.*

2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by sections 166 to 177, inclusive, of this act, or another specific statute, that election is not exclusive and does not preclude the Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by sections 166 to 167, inclusive, of this act, or another specific statute.

3. In carrying out the provisions of this chapter, the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.

Sec. 169. *1. Except as otherwise provided in this section, a written affidavit filed with the Division pursuant to this chapter, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential.*

2. A formal complaint filed with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to sections 166 to 177, inclusive, of this act are public records.

Sec. 170. *1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.*

2. An aggrieved person may not file such an affidavit unless the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation set forth in the affidavit. The notice must:

(a) Be mailed to the respondent's last known address.

(b) Specify, in reasonable detail, the alleged violation, any actual damages suffered by the aggrieved person as a result of the alleged violation, and any corrective action proposed by the aggrieved person.

3. A written affidavit filed with the Division pursuant to this section must be:

(a) On a form prescribed by the Division.

(b) Be accompanied by evidence that:

(1) The respondent has been given a reasonable opportunity after receiving the written notice to correct the alleged violation; and

(2) Reasonable efforts to resolve the alleged violation have failed.

4. The Commission or a hearing panel may impose an administrative fine of not more than $1,000 against any person who knowingly files a false or fraudulent affidavit with the Division.

Sec. 171. *1. Upon receipt of an affidavit that complies with the provisions of section 170 of this act, the Division shall refer the affidavit to the Ombudsman.*

2. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.

3. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and any information collected by the Ombudsman during his efforts to assist the parties to resolve the alleged violation.

4. Upon receipt of the report from the Ombudsman, the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation.

5. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.

Sec. 172. *1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission, the Commission or a hearing panel shall hold a hearing on the complaint not later than 90 days after the date that the complaint is filed.*

2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint.

3. The Division shall give the respondent written notice of the date, time and place of the hearing on the complaint at least 30 days before the date of the hearing. The notice must be:

(a) Delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his last known address.

(b) Accompanied by:

(1) A copy of the complaint; and

(2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint.

4. At any hearing on the complaint, the Division may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division proves to the satisfaction of the Commission or the hearing panel that:

(a) The evidence was not available, after diligent investigation by the Division, before such notice was given to the respondent; and

(b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division.

5. The respondent must file an answer not later than 30 days after the date that notice of the complaint is delivered or mailed by the Division. The answer must:

(a) Contain an admission or a denial of the allegations contained in the complaint and any defenses upon which the respondent will rely; and

(b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.

6. If the respondent does not file an answer within the time required by subsection 5, the Division may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his last known address.

Sec. 173. *Any party to the complaint may be represented by an attorney at any hearing on the complaint.*

Sec. 174. *1. After conducting its hearings on the complaint, the Commission or the hearing panel shall render a final decision on the merits of the complaint not later than 20 days after the date of the final hearing.*

2. The Commission or the hearing panel shall notify all parties to the complaint of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law.

Sec. 175. *1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:*

(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.

(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.

(c) Impose an administrative fine of not more than $1,000 for each violation.

2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his office or position if the Commission or the hearing panel, after notice and hearing, finds that:

(a) The respondent has knowingly and willfully committed a violation; and

(b) The removal is in the best interest of the association.

3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than $1,000 for each violation.

4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attorney's fees.

5. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:

(a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and

(b) The respondent may not be held personally liable for those fines and costs.

Sec. 176. *1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may order an audit of the association.*

2. The Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:

(a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or

(c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.

3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the

association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.

5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.

6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:

(a) Take charge of the estate and effects of the association;

(b) Appoint an agent or agents;

(c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;

(d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and

(e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.

Sec. 177. *1. If the Commission or the Division has reasonable cause to believe, based on evidence satisfactory to it, that any person violated or is about to violate any provision of this chapter, any regulation adopted pursuant thereto or any order, decision, demand or requirement of the Commission or Division or a hearing panel, the Commission or the Division may bring an action in the district court for the county in which the person resides or, if the person does not reside in this State, in any court of competent jurisdiction within or outside this State, to restrain or enjoin that person from engaging in or continuing to commit the violations or from doing any act in furtherance of the violations.*

2. The action must be brought in the name of the State of Nevada. If the action is brought in a court of this State, an order or judgment may be entered, when proper, issuing a temporary restraining order, preliminary injunction or final injunction. A temporary restraining order or preliminary injunction must not be issued without at least 5 days' notice to the opposite party.

3. The court may issue the temporary restraining order, preliminary injunction or final injunction without:

(a) Proof of actual damages sustained by any person.

(b) The filing of any bond.

Sec. 178. NRS 116.013 is hereby amended to read as follows:

116.013 "Certificate" means a certificate for the management of a common-interest community *or the management of an association of a condominium hotel* issued by the Division pursuant to chapter 116A of NRS.

Sec. 179. NRS 116.015 is hereby amended to read as follows:

116.015 "Commission" means the Commission for Common-Interest Communities *and Condominium Hotels* created by NRS 116.600.

Sec. 180. NRS 116.023 is hereby amended to read as follows:

116.023 "Community manager" means a person who provides for or otherwise engages in the management of a common-interest community [.] *or the management of an association of a condominium hotel.*

Sec. 181. NRS 116.067 is hereby amended to read as follows:

116.067 "Ombudsman" means the Ombudsman for Owners in Common-Interest Communities ~~[.]~~ *and Condominium Hotels.*

Sec. 182. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required pursuant to this section to the Administrator if they are not paid by the master association.

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities *and Condominium Hotels* created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes

any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed $3 per unit.

4. The Division shall impose an administrative penalty against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or master association or $500, whichever amount is less. The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to both an association and a master association.

6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.

7. A master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by an association that is subject to the governing documents of the master association.

8. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association or master association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

Sec. 183. NRS 116.41095 is hereby amended to read as follows:

116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY
DID YOU KNOW . . .

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day

period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional community managers to carry out these responsibilities.

Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities ~~[,]~~ *and Condominium Hotels,* the Nevada Real Estate Division and the Commission for Common-Interest Communities ~~[.]~~ *and Condominium Hotels.* However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities ~~[,]~~ *and Condominium Hotels* Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials:_____

Date:_____

Sec. 184. NRS 116.600 is hereby amended to read as follows:

116.600 1. The Commission for Common-Interest Communities *and Condominium Hotels* is hereby created.

2. The Commission consists of five members appointed by the Governor. The Governor shall appoint to the Commission:

(a) One member who is a unit's owner residing in this State and who has served as a member of an executive board in this State;

(b) One member who is in the business of developing common-interest communities in this State;

(c) One member who holds a certificate;

(d) One member who is a certified public accountant licensed to practice in this State pursuant to the provisions of chapter 628 of NRS; and

(e) One member who is an attorney licensed to practice in this State.

3. Each member of the Commission must be a resident of this State. At least three members of the Commission must be residents of a county whose population is 400,000 or more.

4. Each member of the Commission must have resided in a common-interest community or have been actively engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of his appointment.

5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.

6. While engaged in the business of the Commission, each member is entitled to receive:

(a) A salary of not more than $80 per day, as established by the Commission; and

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 185. NRS 116.625 is hereby amended to read as follows:

116.625 1. The Office of the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* is hereby created within the Division.

2. The Administrator shall appoint the Ombudsman. The Ombudsman is in the unclassified service of the State.

3. The Ombudsman must be qualified by training and experience to perform the duties and functions of his office.

4. In addition to any other duties set forth in this chapter, the Ombudsman shall:

(a) Assist in processing claims submitted to mediation or arbitration pursuant to NRS 38.300 to 38.360, inclusive;

(b) Assist owners in common-interest communities *and condominium hotels* to understand their rights and responsibilities as set forth in this chapter *and sections 2 to 177, inclusive, of this act* and the governing documents of their associations, including, without limitation, publishing materials related to those rights and responsibilities;

(c) Assist members of executive boards and officers of associations to carry out their duties;

(d) When appropriate, investigate disputes involving the provisions of this chapter *or sections 2 to 177, inclusive, of this act* or the governing documents of an association and assist in resolving such disputes; and

(e) Compile and maintain a registration of each association organized within the State which includes, without limitation, the following information:

(1) The name, address and telephone number of the association;

(2) The name of each community manager for the common-interest community *or the association of a condominium hotel* and the name of any other person who is authorized to manage the property at the site of the common-interest community ~~[,]~~ *or condominium hotel;*

(3) The names, mailing addresses and telephone numbers of the members of the executive board of the association;

(4) The name of the declarant;

(5) The number of units in the common-interest community ~~[,]~~ *or condominium hotel;*

(6) The total annual assessment made by the association;

(7) The number of foreclosures which were completed on units within the common-interest community *or condominium hotel* and which were based on liens for the failure of the unit's owner to pay any assessments levied against the unit or any fines imposed against the unit's owner; and

(8) Whether the study of the reserves of the association has been conducted pursuant to NRS 116.31152 *or section 117 of this act* and, if so, the date on which it was completed.

Sec. 186. NRS 116.630 is hereby amended to read as follows:

116.630 1. There is hereby created the Account for Common-Interest Communities *and Condominium Hotels* in the State General Fund. The Account must be administered by the Administrator.

2. Except as otherwise provided in subsection 3, all money received by the Commission, a hearing panel or the Division pursuant to this chapter ~~[,]~~ *or sections 2 to 177, inclusive, of this act,* including, without limitation, the fees collected pursuant to NRS 116.31155 ~~[,]~~ *and section 120 of this act,* must be deposited into the Account.

3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

5. The money in the Account must be used solely to defray:

(a) The costs and expenses of the Commission and the Office of the Ombudsman; and

(b) If authorized by the Commission or any regulations adopted by the Commission, the costs and expenses of subsidizing proceedings for mediation and arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive.

Sec. 187. NRS 116A.030 is hereby amended to read as follows:

116A.030 "Association" has the meaning ascribed to it in NRS 116.011 *or section 7 of this act.*

Sec. 188. NRS 116A.040 is hereby amended to read as follows:

116A.040 "Certificate" means a certificate for the management of a common-interest community *or the management of an association of a condominium hotel* issued by the Division pursuant to this chapter.

Sec. 189. NRS 116A.050 is hereby amended to read as follows:

116A.050 "Commission" means the Commission for Common-Interest Communities *and Condominium Hotels* created by NRS 116.600.

Sec. 190. NRS 116A.070 is hereby amended to read as follows:

116A.070 "Community manager" means a person who provides for or otherwise engages in the management of a common-interest community ~~[.]~~ *or the management of an association of a condominium hotel.*

Sec. 191. NRS 116A.090 is hereby amended to read as follows:

116A.090 "Executive board" has the meaning ascribed to it in NRS 116.045 *or section 20 of this act.*

Sec. 192. NRS 116A.120 is hereby amended to read as follows:

116A.120 "Permit" means a permit to conduct a study of the reserves of an association pursuant to NRS 116.31152 *or section 117 of this act* issued by the Division pursuant to this chapter.

Sec. 193. NRS 116A.130 is hereby amended to read as follows:

116A.130 "Reserve study specialist" means a person who conducts a study of the reserves of an association pursuant to NRS 116.31152 ~~[.]~~ *or section 117 of this act.*

Sec. 194. NRS 116A.220 is hereby amended to read as follows:

116A.220 1. Except as otherwise provided in subsection 2, all money received by the Commission, a hearing panel or the Division pursuant to this chapter must be deposited into the Account for Common-Interest Communities *and Condominium Hotels* created pursuant to NRS 116.630.

2. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

3. Money for the support of the Commission and Division in carrying out the provisions of this chapter must be provided by direct legislative

appropriation and be paid out on claims as other claims against the State are paid.

Sec. 195. NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter or chapter 116 of NRS, *or sections 2 to 177, inclusive, of this act,* all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

2. The complaint or other charging documents filed with the Commission to initiate disciplinary action and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline are public records.

Sec. 196. NRS 116A.400 is hereby amended to read as follows:

116A.400 1. Except as otherwise provided in this section, a person shall not act as a community manager unless the person holds a certificate.

2. The Commission shall by regulation provide for the standards of practice for community managers who hold certificates.

3. The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the provisions of this chapter and chapter 116 of NRS *and sections 2 to 177, inclusive, of this act* and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a certificate has violated any provision of this chapter or chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the certificate of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to:

(a) A financial institution that is engaging in an activity permitted by law.

(b) An attorney who is licensed to practice in this State and who is acting in that capacity.

(c) A trustee with respect to the property of the trust.

(d) A receiver with respect to property subject to the receivership.

(e) A member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

Sec. 197. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person holds a permit.

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists who hold permits.

3. The Division may investigate any reserve study specialist who holds a permit to ensure that the reserve study specialist is complying with the provisions of this chapter and chapter 116 of NRS *and sections 2 to 177, inclusive, of this act* and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist who holds a permit has violated any provision of this chapter or chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a permit to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the permit of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

Sec. 198. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a certificate or permit by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a certificate or permit by the holder of the certificate or permit does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the holder of the certificate or permit as authorized pursuant to the provisions of this chapter or chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* or the regulations adopted pursuant thereto against the holder of the certificate or permit.

Sec. 199. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate or permit is required pursuant to this chapter or chapter 116 of NRS, *or*

sections 2 to 177, inclusive, of this act, or any regulation adopted pursuant thereto, if the person does not hold the required certificate or permit or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 200. NRS 37.0097 is hereby amended to read as follows:

37.0097 1. A unit-owners' association may not exercise the power of eminent domain pursuant to the provisions of this chapter.

2. As used in this section, "unit-owners' association" has the meaning ascribed to it in NRS 116.011 ~~[.]~~ *or section 7 of this act.*

Sec. 201. NRS 38.300 is hereby amended to read as follows:

38.300 As used in NRS 38.300 to 38.360, inclusive, unless the context otherwise requires:

1. "Assessments" means:

(a) Any charge which an association may impose against an owner of residential property pursuant to a declaration of covenants, conditions and restrictions, including any late charges, interest and costs of collecting the charges; and

(b) Any penalties, fines, fees and other charges which may be imposed by an association pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 ~~[.]~~ *or subsections 10, 11 and 12 of section 83 of this act.*

2. "Association" has the meaning ascribed to it in NRS 116.011 ~~[.]~~ *or section 7 of this act.*

3. "Civil action" includes an action for money damages or equitable relief. The term does not include an action in equity for injunctive relief in which there is an immediate threat of irreparable harm, or an action relating to the title to residential property.

4. "Division" means the Real Estate Division of the Department of Business and Industry.

5. "Residential property" includes, but is not limited to, real estate within a planned community subject to the provisions of chapter 116 of NRS ~~[.]~~ *or real estate within a condominium hotel subject to the provisions of sections 2 to 177, inclusive, of this act.* The term does not include commercial property if no portion thereof contains property which is used for residential purposes.

Sec. 202. NRS 38.310 is hereby amended to read as follows:

38.310 1. No civil action based upon a claim relating to:

(a) The interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association; or

(b) The procedures used for increasing, decreasing or imposing additional assessments upon residential property,

➥ may be commenced in any court in this state unless the action has been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360, inclusive, and, if the civil action concerns real estate within a planned community subject to the provisions of chapter 116 of NRS ~~[,]~~ *or real estate within a condominium hotel subject to the provisions of sections 2 to 177, inclusive, of this act,* all administrative procedures specified in any covenants, conditions or restrictions applicable to the property or in any bylaws, rules and regulations of an association have been exhausted.

2. A court shall dismiss any civil action which is commenced in violation of the provisions of subsection 1.

Sec. 203. NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation

conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party.

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities *and Condominium Hotels* created by NRS 116.630, to the extent that:

(a) The Commission for Common-Interest Communities *and Condominium Hotels* approves the payment; and

(b) There is money available in the account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

5. If all the parties have agreed to nonbinding arbitration, any party to the arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such arbitration may be vacated and a rehearing

granted upon application of a party pursuant to the provisions of NRS 38.241.

7. If, after the conclusion of arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

➥ the party shall, if he fails to obtain a more favorable award or judgment than that which was obtained in the initial arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

8. Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.

9. As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

Sec. 204. NRS 78.045 is hereby amended to read as follows:

78.045 1. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State which provides that the name of the corporation contains the word "bank" or "trust," unless:

(a) It appears from the articles or the certificate of amendment that the corporation proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and

(b) The articles or certificate of amendment is first approved by the Commissioner of Financial Institutions.

2. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the provisions of this chapter if it appears from the articles or the certificate of amendment that the business to be carried on by the corporation is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions, unless the articles or certificate of amendment is approved by the Commissioner who will supervise the business of the corporation.

3. Except as otherwise provided in subsection 6, the Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State if the name of the corporation contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

(a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the corporation are licensed to practice engineering pursuant to the laws of this State; or

(b) The State Board of Professional Engineers and Land Surveyors certifies that the corporation is exempt from the prohibitions of NRS 625.520.

4. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State which provides that the name of the corporation contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the corporation:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the corporation is not engaged in the practice of accounting and is not offering to practice accounting in this State.

5. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to the laws of this State which provides that the name of the corporation contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[,]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act.*

6. The provisions of subsection 3 do not apply to any corporation, whose securities are publicly traded and regulated by the Securities Exchange Act of 1934, which does not engage in the practice of professional engineering.

7. The Commissioner of Financial Institutions and the Commissioner of Insurance may approve or disapprove the articles or amendments referred to them pursuant to the provisions of this section.

Sec. 205. NRS 78.170 is hereby amended to read as follows:

78.170 1. Each corporation which is required to make a filing and pay the fee prescribed in NRS 78.150 to 78.185, inclusive, and which refuses or neglects to do so within the time provided shall be deemed in default.

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a corporation which is a unit-owners' association as defined in NRS 116.011 *or section 7 of this act* has failed to register pursuant to NRS 116.31158 *or section 121 of this act* or failed to pay the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act*, the Secretary of State shall deem the corporation to be in default. If, after

the corporation is deemed to be in default, the Administrator notifies the Secretary of State that the corporation has registered pursuant to NRS 116.31158 *or section 121 of this act* and paid the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act*, the Secretary of State shall reinstate the corporation if the corporation complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185.

3. For default there must be added to the amount of the fee a penalty of $75. The fee and penalty must be collected as provided in this chapter.

Sec. 206. NRS 81.055 is hereby amended to read as follows:

81.055 1. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed under the provisions of NRS 81.010 to 81.160, inclusive, which provides that the name of the corporation contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment of articles of incorporation that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[,]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[,]~~ *and section 120 of this act.*

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a corporation which is a unit-owners' association as defined in NRS 116.011 *or section 7 of this act* has failed to register pursuant to NRS 116.31158 *or section 121 of this act* or failed to pay the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act*, the Secretary of State shall deem the corporation to be in default. If, after the corporation is deemed to be in default, the Administrator notifies the Secretary of State that the corporation has registered pursuant to NRS 116.31158 *or section 121 of this act* and paid the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act*, the Secretary of State shall reinstate the corporation if the corporation complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185.

Sec. 207. NRS 81.205 is hereby amended to read as follows:

81.205 1. The Secretary of State shall not accept for filing any articles of association or any certificate of amendment of articles of association of any association formed under the provisions of NRS 81.170 to 81.270, inclusive, which provides that the name of the association contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of association or certificate of amendment of articles of

association that the purpose of the association is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the association has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[,]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act.*

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that an association which is a unit-owners' association as defined in NRS 116.011 *or section 7 of this act* has failed to register pursuant to NRS 116.31158 *or section 121 of this act* or failed to pay the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act,* the Secretary of State shall deem the association to be in default. If, after the association is deemed to be in default, the Administrator notifies the Secretary of State that the association has registered pursuant to NRS 116.31158 *or section 121 of this act* and paid the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act,* the Secretary of State shall reinstate the association if the association complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185 and pays the fees required pursuant to NRS 82.193.

Sec. 208. NRS 81.445 is hereby amended to read as follows:

81.445 1. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed under the provisions of NRS 81.410 to 81.540, inclusive, which provides that the name of the corporation contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment of articles of incorporation that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[,]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act.*

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a corporation which is a unit-owners' association as defined in NRS 116.011 *or section 7 of this act* has failed to register pursuant to NRS 116.31158 *or section 121 of this act* or failed to pay the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act,* the Secretary of State shall deem the corporation to be in default. If, after

the corporation is deemed to be in default, the Administrator notifies the Secretary of State that the corporation has registered pursuant to NRS 116.31158 *or section 121 of this act* and paid the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act*, the Secretary of State shall reinstate the corporation if the corporation complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185 and pays the fees required pursuant to NRS 82.193.

Sec. 209. NRS 82.106 is hereby amended to read as follows:

82.106 1. The Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the words "trust," "engineer," "engineered," "engineering," "professional engineer" or "licensed engineer."

2. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing under this chapter when it appears from the articles or the certificate of amendment that the business to be carried on by the corporation is subject to supervision by the Commissioner of Insurance.

3. The Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing."

4. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to the laws of this State which provides that the name of the corporation contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[,]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act.*

Sec. 210. NRS 82.193 is hereby amended to read as follows:

82.193 1. A corporation shall have a resident agent in the manner provided in NRS 78.090, 78.095, 78.097 and 78.110. The resident agent and the corporation shall comply with the provisions of those sections.

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a corporation which is a unit-owners' association as defined in NRS 116.011 *or section 7 of this act* has failed to register pursuant to NRS 116.31158 *or section 121 of this act* or failed to pay the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act*, the Secretary of State shall deem the corporation to be in default. If, after the corporation is deemed to be in default, the Administrator notifies the Secretary of State that the corporation has registered pursuant to NRS 116.31158 *or section 121 of this act* and paid the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act*, the Secretary of State shall reinstate the corporation if the corporation complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185.

3. A corporation is subject to the provisions of NRS 78.150 to 78.185, inclusive, except that:

(a) The fee for filing a list is $25;

(b) The penalty added for default is $50; and

(c) The fee for reinstatement is $100.

Sec. 211. NRS 86.171 is hereby amended to read as follows:

86.171 1. The name of a limited-liability company formed under the provisions of this chapter must contain the words "Limited-Liability Company," "Limited Liability Company," "Limited Company," or "Limited" or the abbreviations "Ltd.," "L.L.C.," "L.C.," "LLC" or "LC." The word "Company" may be abbreviated as "Co."

2. The name proposed for a limited-liability company must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If a proposed name is not so distinguishable, the Secretary of State shall return the articles of organization to the organizer, unless the written, acknowledged consent of the holder of the name on file or reserved name to use the same name or the requested similar name accompanies the articles of organization.

3. For the purposes of this section and NRS 86.176, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

4. The name of a limited-liability company whose charter has been revoked, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

5. The Secretary of State shall not accept for filing any articles of organization for any limited-liability company if the name of the limited-liability company contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the limited-liability company:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the limited-liability company is not engaged in the practice of accounting and is not offering to practice accounting in this State.

6. The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the word "bank" or "trust" unless:

(a) It appears from the articles of organization or the certificate of amendment that the limited-liability company proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and

(b) The articles of organization or certificate of amendment is first approved by the Commissioner of Financial Institutions.

7. The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the provisions of this chapter if it appears from the articles or the certificate of amendment that the business to be carried on by the limited-liability company is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions unless the articles or certificate of amendment is approved by the Commissioner who will supervise the business of the limited-liability company.

8. Except as otherwise provided in subsection 7, the Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

(a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the limited-liability company are licensed to practice engineering pursuant to the laws of this State; or

(b) The State Board of Professional Engineers and Land Surveyors certifies that the limited-liability company is exempt from the prohibitions of NRS 625.520.

9. The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of organization or certificate of amendment of articles

of organization that the purpose of the limited-liability company is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the limited-liability company has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[,]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act.*

10. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 212. NRS 86.272 is hereby amended to read as follows:

86.272 1. Each limited-liability company which is required to make a filing and pay the fee prescribed in NRS 86.263 and 86.264 and which refuses or neglects to do so within the time provided is in default.

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a limited-liability company which is a unit-owners' association as defined in NRS 116.011 *or section 7 of this act* has failed to register pursuant to NRS 116.31158 *or section 121 of this act* or failed to pay the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act,* the Secretary of State shall deem the limited-liability company to be in default. If, after the limited-liability company is deemed to be in default, the Administrator notifies the Secretary of State that the limited-liability company has registered pursuant to NRS 116.31158 *or section 121 of this act* and paid the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act,* the Secretary of State shall reinstate the limited-liability company if the limited-liability company complies with the requirements for reinstatement as provided in this section and NRS 86.276.

3. For default there must be added to the amount of the fee a penalty of $75. The fee and penalty must be collected as provided in this chapter.

Sec. 213. NRS 87.450 is hereby amended to read as follows:

87.450 1. The name proposed for a registered limited-liability partnership must contain the words "Limited-Liability Partnership" or "Registered Limited-Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of the name and must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name of the registered limited-liability partnership on a certificate of registration of limited-liability partnership submitted to the Secretary of State is not distinguishable from a name on file or reserved name, the Secretary of State shall return the certificate to the person who signed it unless the written, acknowledged consent of the holder

of the name on file or reserved name to use the name accompanies the certificate.

2. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

3. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the registered limited-liability partnership:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the registered limited-liability partnership is not engaged in the practice of accounting and is not offering to practice accounting in this State.

4. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains the word "bank" or "trust" unless:

(a) It appears from the certificate of registration or the certificate of amendment that the registered limited-liability partnership proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and

(b) The certificate of registration or certificate of amendment is first approved by the Commissioner of Financial Institutions.

5. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the provisions of this chapter if it appears from the certificate of registration or the certificate of amendment that the business to be carried on by the registered limited-liability partnership is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions, unless the certificate of registration or certificate of amendment is approved by the Commissioner who will supervise the business of the registered limited-liability partnership.

6. Except as otherwise provided in subsection 5, the Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains

the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

(a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the registered limited-liability partnership are licensed to practice engineering pursuant to the laws of this State; or

(b) The State Board of Professional Engineers and Land Surveyors certifies that the registered limited-liability partnership is exempt from the prohibitions of NRS 625.520.

7. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the certificate of registration or certificate of amendment that the purpose of the registered limited-liability partnership is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the registered limited-liability partnership has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[,]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act.*

8. The name of a registered limited-liability partnership whose right to transact business has been forfeited, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

9. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 214. NRS 87.520 is hereby amended to read as follows:

87.520 1. A registered limited-liability partnership that fails to comply with the provisions of NRS 87.510 is in default.

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a registered limited-liability partnership which is a unit-owners' association as defined in NRS 116.011 *or section 7 of this act* has failed to register pursuant to NRS 116.31158 *or section 121 of this act* or failed to pay the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act,* the Secretary of State shall deem the registered limited-liability partnership to be in default. If, after the registered limited-liability partnership is deemed to be in default, the Administrator notifies the Secretary of State that the registered limited-liability partnership has registered pursuant to NRS 116.31158 *or section 121 of this act* and paid

the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act*, the Secretary of State shall reinstate the registered limited-liability partnership if the registered limited-liability partnership complies with the requirements for reinstatement as provided in this section and NRS 87.530.

3. Any registered limited-liability partnership that is in default pursuant to this section must, in addition to the fee required to be paid pursuant to NRS 87.510, pay a penalty of $75.

4. The Secretary of State shall provide written notice to the resident agent of any registered limited-liability partnership that is in default. The written notice:

(a) Must include the amount of any payment that is due from the registered limited-liability partnership.

(b) At the request of the resident agent, may be provided electronically.

5. If a registered limited-liability partnership fails to pay the amount that is due, the certificate of registration of the registered limited-liability partnership shall be deemed revoked immediately after the last day of the month in which the anniversary date of the filing of the certificate of registration occurs, and the Secretary of State shall notify the registered limited-liability partnership, by providing written notice to its resident agent or, if the registered limited-liability partnership does not have a resident agent, to a managing partner, that its certificate of registration is revoked. The written notice:

(a) Must include the amount of any fees and penalties incurred that are due.

(b) At the request of the resident agent or managing partner, may be provided electronically.

Sec. 215. NRS 88.320 is hereby amended to read as follows:

88.320 1. Except as otherwise provided in NRS 88.6065, the name proposed for a limited partnership as set forth in its certificate of limited partnership:

(a) Must contain the words "Limited Partnership," or the abbreviation "LP" or "L.P.";

(b) May not contain the name of a limited partner unless:

(1) It is also the name of a general partner or the corporate name of a corporate general partner; or

(2) The business of the limited partnership had been carried on under that name before the admission of that limited partner; and

(c) Must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name on the certificate of limited partnership submitted to the Secretary of State is not distinguishable from any name on file or reserved name, the Secretary of State shall return the certificate to the filer, unless the written, acknowledged

consent to the use of the same or the requested similar name of the holder of the name on file or reserved name accompanies the certificate of limited partnership.

2. For the purposes of this section, a proposed name is not distinguished from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

3. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the limited partnership:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the limited partnership is not engaged in the practice of accounting and is not offering to practice accounting in this State.

4. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the word "bank" or "trust" unless:

(a) It appears from the certificate of limited partnership that the limited partnership proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and

(b) The certificate of limited partnership is first approved by the Commissioner of Financial Institutions.

5. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the provisions of this chapter if it appears from the certificate of limited partnership that the business to be carried on by the limited partnership is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions, unless the certificate of limited partnership is approved by the Commissioner who will supervise the business of the limited partnership.

6. Except as otherwise provided in subsection 5, the Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

(a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the limited partnership are licensed to practice engineering pursuant to the laws of this State; or

(b) The State Board of Professional Engineers and Land Surveyors certifies that the limited partnership is exempt from the prohibitions of NRS 625.520.

7. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the certificate of limited partnership that the purpose of the limited partnership is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the limited partnership has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[,]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act.*

8. The name of a limited partnership whose right to transact business has been forfeited, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

9. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 216. NRS 88.400 is hereby amended to read as follows:

88.400 1. If a limited partnership has filed the list in compliance with NRS 88.395 and has paid the appropriate fee for the filing, the cancelled check or other proof of payment received by the limited partnership constitutes a certificate authorizing it to transact its business within this State until the anniversary date of the filing of its certificate of limited partnership in the next succeeding calendar year.

2. Each limited partnership which is required to make a filing and pay the fee prescribed in NRS 88.395 and 88.397 and which refuses or neglects to do so within the time provided is in default.

3. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a limited partnership which is a unit-owners' association as defined in NRS 116.011 *or section 7 of this act* has failed to register pursuant to NRS 116.31158 *or section 121 of this act* or failed to pay the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act,* the Secretary of State shall deem the limited partnership to be in default. If, after the limited partnership is deemed to be in default, the Administrator notifies the Secretary of State that the limited partnership has registered pursuant to NRS 116.31158 *or section 121 of this act* and paid the fees pursuant to NRS 116.31155 ~~[,]~~ *or section 120 of this act,* the Secretary of State shall reinstate the limited partnership if the limited partnership

complies with the requirements for reinstatement as provided in this section and NRS 88.410.

4. For default there must be added to the amount of the fee a penalty of $75, and unless the filings are made and the fee and penalty are paid on or before the first day of the first anniversary of the month following the month in which filing was required, the defaulting limited partnership, by reason of its default, forfeits its right to transact any business within this State.

Sec. 217. NRS 88.6065 is hereby amended to read as follows:

88.6065 1. The name proposed for a registered limited-liability limited partnership must contain the words "Limited-Liability Limited Partnership" or "Registered Limited-Liability Limited Partnership" or the abbreviation "L.L.L.P." or "LLLP" as the last words or letters of the name and must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name of the registered limited-liability limited partnership on a certificate of registration of limited-liability limited partnership submitted to the Secretary of State is not distinguishable from any name on file or reserved name, the Secretary of State shall return the certificate to the person who signed it, unless the written, acknowledged consent to the same name of the holder of the name on file or reserved name to use the name accompanies the certificate.

2. The Secretary of State shall not accept for filing any certificate of registration or any certificate of amendment of a certificate of registration of any registered limited-liability limited partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability limited partnership contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the certificate of registration or certificate of amendment that the purpose of the registered limited-liability limited partnership is to operate as a unit-owners' association pursuant to chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the registered limited-liability limited partnership has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities *and Condominium Hotels* pursuant to NRS 116.31158 ~~[.]~~ *or section 121 of this act;* and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155 ~~[.]~~ *or section 120 of this act.*

3. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

4. The name of a registered limited-liability limited partnership whose right to transact business has been forfeited, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

5. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 217.5. *NRS 361.233 is hereby amended to read as follows:*

361.233 1. Notwithstanding any other provision of law:

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:

(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

(b) Each community unit must be assessed separately for the purposes of ad valorem taxes and special assessments.

(c) Any lien created by the levy of an ad valorem tax or special assessment upon a community unit applies only to the community unit assessed and does not apply to any other portion of the common-interest community.

2. For the purposes of this section:

(a) "Ad valorem tax" means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) "Common elements" means all real property within a common-interest community other than the community units, which is owned:

(1) By the community association;

(2) By any person on behalf or for the benefit of the owners of the community units; or

(3) Jointly by the owners of the community units.

(c) "Common-interest community" means real property with respect to which a person, by virtue of his ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, *a condominium hotel governed by the provisions of sections 2 to 177, inclusive, of this act,* a condominium project governed by the provisions of chapter 117 of NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) "Community association" means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community designated for separate ownership or occupancy.

(f) "Special assessment" means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

Sec. 218. NRS 645.240 is hereby amended to read as follows:

645.240 1. The provisions of this chapter do not apply to, and the terms "real estate broker" and "real estate salesman" do not include, any:

(a) Owner or lessor of property, or any regular employee of such a person, who performs any of the acts mentioned in NRS 645.030, 645.040, 645.230 and 645.260, with respect to the property in the regular course of or as an incident to the management of or investment in the property. For the purposes of this paragraph, "management" means activities which tend to preserve or increase the income from the property by preserving the physical desirability of the property or maintaining high standards of service to tenants. The term does not include sales activities.

(b) Employee of a real estate broker while engaged in the collection of rent for or on behalf of the broker.

(c) Person while performing the duties of a property manager for a property, if the person maintains an office on the property and does not engage in property management with regard to any other property.

(d) Person while performing the duties of a property manager for a common-interest community governed by the provisions of chapter 116 of NRS, *an association of a condominium hotel governed by the provisions of sections 2 to 177, inclusive, of this act,* a condominium project governed by the provisions of chapter 117 of NRS, a time share governed by the provisions of chapter 119A of NRS, or a planned unit development governed by the provisions of chapter 278A of NRS, if the person is a member in good standing of, and, if applicable, holds a current certificate, registration or other similar form of recognition from, a nationally recognized organization or association for persons managing such properties that has been approved by the Real Estate Division by regulation.

(e) Person while performing the duties of a property manager for property used for residential housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government.

2. Except as otherwise provided in NRS 645.606 to 645.6085, inclusive, the provisions of this chapter do not apply to:

(a) Any bank, thrift company, credit union, trust company, savings and loan association or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.

(b) A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.

(c) The services rendered by an attorney at law in the performance of his duties as an attorney at law.

(d) A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.

(e) A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.

(f) The purchase, sale or locating of mining claims or options thereon or interests therein.

(g) The State of Nevada or a political subdivision thereof.

Sec. 219. NRS 649.020 is hereby amended to read as follows:

649.020 1. "Collection agency" means all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.

2. "Collection agency" does not include any of the following unless they are conducting collection agencies:

(a) Individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any person not engaged in the business of a collection agency or making or attempting to make collections as an incident to the usual practices of their primary business or profession.

(b) Banks.

(c) Nonprofit cooperative associations.

(d) Unit-owners' associations and the board members, officers, employees and units' owners of those associations when acting under the authority of and in accordance with chapter 116 of NRS *or sections 2 to 177, inclusive, of this act* and the governing documents of the association, except for those community managers included within the term "collection agency" pursuant to subsection 3.

(e) Abstract companies doing an escrow business.

(f) Duly licensed real estate brokers, except for those real estate brokers who are community managers included within the term "collection agency" pursuant to subsection 3.

(g) Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession and the collection, solicitation or obtainment is incidental to the usual course of the practice of their profession.

3. "Collection agency":

(a) Includes a community manager while engaged in the management of a common-interest community *or the management of an association of a condominium hotel* if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act

associated with the foreclosure of a lien pursuant to NRS 116.31162 to 116.31168, inclusive ~~[,]~~ *or sections 123 to 128, inclusive, of this act;* and

(b) Does not include any other community manager while engaged in the management of a common-interest community ~~[.]~~ *or the management of an association of a condominium hotel.*

4. As used in this section:

(a) "Community manager" has the meaning ascribed to it in NRS 116.023 ~~[.]~~ *or section 11 of this act.*

(b) "Unit-owners' association" has the meaning ascribed to it in NRS 116.011 ~~[.]~~ *or section 7 of this act.*

Sec. 220. This act becomes effective ~~[on]~~ :

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

2. On January 1, 2008 ~~[.]~~ *, for all other purposes.*

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider, Care, Townsend, Carlton and Coffin.

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

The bill, itself, is modeled after NRS chapters 116 and 116A, which deal with common-interest communities, which are generally referred to as "homeowner associations." This bill creates a new chapter to address a new species of common-interest community, one that is a hybrid of residential condominium-type units and a hotel operation. The committee felt it was appropriate to include many of the rights and protections afforded to unit's owners under chapter 116 in this new chapter.

Therefore, Amendment No. 899 to Assembly Bill No. 431, section 66.3, adds provisions that do the following:

Require the rules and regulations adopted by the hotel unit owner and applicable to units' owners to be reasonable, clear, consistent with the governing documents and uniformly enforced.

Section 66.5 provides an appeal mechanism for a unit's owner who is denied use of shared components of the project because of an alleged violation of association rules. Section 100 requires meetings of the units' owners at least once a year and requires the hotel unit owner to provide information about budget matters at such meetings. Section 115 requires the hotel owner to establish adequate reserves for major components of the hotel unit and provide advance information about future budgets and assessments as well as, in Section 118, perform reserve studies that include major components of the hotel unit. Section 133.5 prohibits retaliatory action against unit's owners who make good faith complaints or request access to association financial data and section 151.7 provides for civil actions for damages, including punitive damages and attorney's fees if one unit's owner or the hotel violates the rights of another unit's owner. The amendment in section 31.5 also makes some technical changes such as defining "major components of the hotel unit" and clarifying the definition of "special declarant's rights" in Section 44 and the term "unit" in section 46. It also adds references to "major components of the hotel unit" in appropriate sections regarding financial matters throughout the amendment.

Finally, the amendment makes the bill effective on passage and approval for adopting regulations and performing other preparatory administrative tasks.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved that Assembly Bill No. 439 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Hardy.

Motion carried.

Senator Nolan moved that Assembly Bill No. 321 be taken from the Secretary's desk and placed on the General File.

Remarks by Senator Nolan.

Motion carried.

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

Senate in recess at 3:23 p.m.

SENATE IN SESSION

At 3:28 p.m.

President Krolicki presiding.

Quorum present.

Senator Washington moved that Assembly Bill No. 244 be taken from the Secretary's desk and placed on the bottom of the General File.

Remarks by Senator Washington.

Motion carried.

Senator Amodei moved that Assembly Bill No. 90 be taken from the Secretary's desk and placed on the General File for the next legislative day.

Remarks by Senator Amodei.

Motion carried.

Senator Nolan moved to withdraw Amendment No. 830 to Assembly Bill No. 321.

Remarks by Senator Nolan.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 463.

Bill read second time.

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

Amendment No. 941.

"SUMMARY—Makes various changes pertaining to residential establishments and group homes. (BDR 22-534)"

"AN ACT relating to land use planning; making various changes pertaining to residential establishments and group homes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Health Division of the Department of Health and Human Services is required to compile, maintain and disseminate a registry pertaining to each "residential establishment" that exists in this State. (NRS 278.021) Sections 2-7 of this bill: (1) require local governments to assist in obtaining such information; (2) expand the registry to include certain information likely to be helpful to agencies that provide police, fire-fighting, rescue or emergency medical services; and (3) broaden the scope of the registry to apply not just to licensed residential establishments, but to any facility that provides similar services to four or more persons. Thus, facilities operating unlawfully as residential establishments are included in the registry, providing necessary information to licensing and law enforcement authorities.

Section 8 of this bill provides that if a county or city requires a certain approval or permit before a residential establishment may operate, the county or city must, before granting that approval or permit ~~[,]~~ *: (1)* ensure that the establishment, or its owner or operator, has secured the necessary certifications or licenses that are required by federal, state or local authorities ~~[. Section 8 also allows for]~~ *, unless* conditional or provisional approval or permitting ~~[by a local government]~~ *is granted by the county or city* pending receipt by the establishment of the necessary certification or license ~~[.]~~ *; and (2) ensure that, if the establishment is subject to the distance requirements set forth in section 9 of this bill, the establishment will be located and operated in accordance with those requirements.*

Under existing law, the governing body of a county whose population is 100,000 or more (currently Clark and Washoe Counties), and the governing body of each city in such a county, is required to establish by ordinance a minimum distance between residential establishments that is at least 660 feet but not more than 1,500 feet. (NRS 278.021) Section 9 of this bill changes the minimum distance prospectively to at least 1,500 feet but not more than 2,500 feet. Section ~~[10]~~ *11* of this bill provides that if a governing body fails to establish the minimum distance requirement by December 31, 2007, its ordinances will be conformed by operation of state law to a 2,500-foot distance requirement.

Existing law requires an applicant seeking licensure of a facility under the provisions of NRS 449.001 to 449.240, inclusive, to file with the Health Division an application containing certain information and evidence. (NRS 449.040) Section 10 of this bill provides additionally that such an application must, if the facility for which licensure is sought is a "residential establishment" as defined in section 5 of this bill, and if such establishment is subject to the distance requirements set forth in section 9 of this bill, include evidence satisfactory to the Health Division that the establishment will be located and operated in accordance with those requirements.

WHEREAS, Residential establishments, commonly referred to as "group homes," include such facilities as halfway houses for recovering alcohol and

drug abusers, homes for individual residential care, and residential facilities for groups; and

WHEREAS, Residential establishments serve an important purpose in the various communities of this State, allowing persons with special needs to receive assistance or care in a setting that may be more comfortable, ~~[less]~~ *more* informal and less expensive than the setting of a more formal institution, such as a hospital; and

WHEREAS, Federal law, including the Fair Housing Act of 1968 and the Fair Housing Amendments Act of 1988, clearly prohibits discriminatory housing practices, including practices which have the effect of discriminating against persons with disabilities in regard to the availability of housing; and

WHEREAS, The statutes of this State already require, in large part, that residential establishments be treated as single-family residences for zoning purposes, and already require the Health Division of the Department of Health and Human Services to compile and maintain a registry of information relating to such establishments; and

WHEREAS, Ensuring that such information is accurate, current and disseminated to the pertinent authorities is of vital importance to several state and local governmental agencies, because: (1) persons who reside in residential establishments may be more susceptible than other persons to become victims of mistreatment or unscrupulous behavior, including, without limitation, Medicaid fraud or Medicare fraud; (2) governmental agencies and officers who enforce health and safety standards must be notified of the location of residential establishments in order to protect adequately the persons who reside in those establishments; and (3) fire departments, law enforcement agencies and other first responders must be notified of the locations of residential establishments so that they may be prepared to address the special needs of the residents of those establishments in the event of a fire, medical crisis or other emergency; and

WHEREAS, In several communities throughout the State, the names ascribed to residential establishments may be different, and certain persons may attempt to operate on an informal or unlicensed basis facilities that are, in practical effect, residential establishments; now, therefore,

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in NRS 278.021 and sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Halfway house for recovering alcohol and drug abusers" has the meaning ascribed to it in NRS 449.008.*

Sec. 3.5. "Health Division" means the Health Division of the Department of Health and Human Services.

Sec. 4. *"Home for individual residential care" has the meaning ascribed to it in NRS 449.0105.*

Sec. 5. *"Residential establishment" means a home for individual residential care in a county whose population is 100,000 or more, a halfway house for recovering alcohol and drug abusers or a residential facility for groups.*

Sec. 6. *"Residential facility for groups" has the meaning ascribed to it in NRS 449.017.*

Sec. 7. *1. Each ~~[political subdivision of the State of Nevada shall, within the limits of available money:]~~ county and city shall:*

(a) Conduct a reasonable investigation or survey to determine, insofar as is practicable, the following information regarding each group home that is located within the territorial limits of the ~~[political subdivision:]~~ county or city:

(1) The name of the owner of the group home;

(2) If the group home is leased or rented, the name of the lessee or renter;

(3) The name of the administrator of the group home, if any;

(4) The address of the group home;

(5) The phone number of the group home;

(6) If the group home is licensed, the number of clients for which the home is licensed; and

(7) If known, any information that may be helpful to agencies of the State of Nevada or counties or cities providing police, fire-fighting, rescue or emergency medical services with respect to persons residing in the group home who may need special assistance in the event of a fire, medical crisis or other emergency; and

(b) As often as is reasonably necessary, but not less frequently than once each calendar quarter, transmit the information to the Health Division.

2. If a ~~[political subdivision]~~ county or city is not able to obtain all of the information described in subsection 1, it shall transmit to the Health Division such information as it is able to obtain.

3. Using the information transmitted by ~~[political subdivisions]~~ counties and cities pursuant to subsection 1 and using any other resources at its disposal, the Health Division shall compile and maintain a registry of information relating to each group home that exists in this State. The Health Division shall make the information contained in the registry available to:

(a) Any agency of the State of Nevada or a ~~[political subdivision of this State]~~ county or city that provides police, fire-fighting, rescue or emergency medical services;

(b) Upon request for the purposes set forth in section 8 of this act, the governing body of a county or city;

(c) Any agency of the Federal Government, the State of Nevada or a ~~[political subdivision of this State]~~ county or city that is involved in the investigation of acts of abuse, fraud or similar crimes; and

~~[(c)]~~ (d) *Except as otherwise provided in this paragraph, the general public, through the use of the Internet website maintained by the Health Division. The Health Division shall not make available on its Internet website any personally identifying information relating to a resident of a group home.*

4. Insofar as the Health Division is able to obtain the relevant information, the registry compiled and maintained by the Health Division must include, with respect to each group home that exists in this State:

(a) Each item of information described in paragraph (a) of subsection 1; and

(b) An entry indicating whether the group home is or is not formally licensed or certified as a residential establishment.

5. Any department or agency of the State of Nevada or a ~~[political subdivision of this State]~~ county or city that becomes aware of the existence of a group home which is not included in the registry shall, within 30 days after obtaining such information, transmit the information to the Health Division as is necessary for inclusion in the registry.

6. As used in this section ~~[:~~

~~(a) "Group]~~ , "group home" means:

~~[(1)]~~ (a) A residential establishment; and

~~[(2)]~~ (b) Any other home, facility or residence, whether or not it is licensed, whether it is operated formally or informally and by whatever name it may be known, that provides to four or more unrelated persons services similar to those provided by a residential establishment.

~~[(b) "Health Division" means the Health Division of the Department of Health and Human Services.~~

~~(c) "Political subdivision" means a city or county.]~~

Sec. 8. *1. As a prerequisite to the approval or issuance of any rezoning, zone variance or special use permit that is necessary to operate a residential establishment, the governing body of a county or city shall :*

(a) Except as otherwise provided in subsection 2, ensure that the residential establishment or the owner or operator thereof has obtained any licenses or certifications that are required by federal, state or local authorities ~~[.]~~ ; and

(b) If the residential establishment is subject to the distance requirements set forth in subsection 3 of NRS 278.021, request and use the information contained in the registry compiled and maintained pursuant to section 7 of this act to ensure that the residential establishment will be located and operated in accordance with the provisions of that subsection.

2. Pending a residential establishment or the owner or operator thereof obtaining the required licenses ~~[and]~~ or certifications, the governing body of a county or city or another entity designated to act on behalf of the governing body may conditionally or provisionally approve or issue any rezoning, zone variance or special use permit that is necessary to operate the residential establishment.

Sec. 9. NRS 278.021 is hereby amended to read as follows:

278.021 1. In any ordinance adopted by a city or county, the definition of "single-family residence" must include a:

(a) Residential facility for groups in which 10 or fewer unrelated persons with disabilities reside with:

(1) House parents or guardians who need not be related to any of the persons with disabilities; and

(2) If applicable, additional persons who are related to the house parents or guardians within the third degree of consanguinity or affinity.

(b) Home for individual residential care.

(c) Halfway house for recovering alcohol and drug abusers.

2. The provisions of subsection 1 do not prohibit a definition of "single-family residence" which permits more persons to reside in a residential facility for groups, nor does it prohibit regulation of homes which are operated on a commercial basis. For the purposes of this subsection, a residential facility for groups, a halfway house for recovering alcohol and drug abusers or a home for individual residential care shall not be deemed to be a home that is operated on a commercial basis for any purposes relating to building codes or zoning.

3. ~~[The Health Division of the Department of Health and Human Services shall compile and maintain a registry of information relating to each residential establishment that exists in this State and shall make available for access on the Internet or its successor, if any, the information contained in the registry. The registry must include with respect to each residential establishment:~~

~~(a) The name of the owner of the establishment;~~

~~(b) The name of the administrator of the establishment;~~

~~(c) The address of the establishment; and~~

~~(d) The number of clients for which the establishment is licensed.~~

~~➥ Any department or agency of a county or city that becomes aware of the existence of a residential establishment that is not included in the registry shall transmit such information to the Health Division, as is necessary, for inclusion in the registry within 30 days after obtaining the information.~~

~~4.]~~ The governing body of a county whose population is 100,000 or more or the governing body of a city in such a county or any department or agency of the city or county shall approve the first application submitted on or after July 1, 2000, to operate a residential establishment within a particular neighborhood in the jurisdiction of the governing body. If a subsequent application is submitted to operate an additional residential establishment at a location that is within the minimum distance established by the governing body pursuant to this subsection from an existing residential establishment, the governing body shall review the application based on applicable zoning ordinances. The requirements of this subsection do not require the relocation or displacement of any residential establishment which existed before July 1, 2001, from its location on that date. The provisions of this subsection

do not create or impose a presumption that the location of more than one residential establishment within the minimum distance of each other established by the governing body pursuant to this subsection is inappropriate under all circumstances with respect to the enforcement of zoning ordinances and regulations. For purposes of this subsection, each governing body shall establish by ordinance a minimum distance between residential establishments that is at least ~~[660]~~ *1,500* feet but not more than ~~[1,500]~~ *2,500* feet.

~~[5. The]~~

4. Except as otherwise provided in section 8 of this act, the governing body of a county or city shall not refuse to issue a special use permit to a residential establishment that meets local public health and safety standards.

~~[6.]~~ *5.* The provisions of this section must not be applied in any manner which would result in a loss of money from the Federal Government for programs relating to housing.

~~[7.]~~ *6.* As used in this section ~~[:~~

~~(a) "Halfway house for recovering alcohol and drug abusers" has the meaning ascribed to it in NRS 449.008.~~

~~(b) "Home for individual residential care" has the meaning ascribed to it in NRS 449.0105.~~

~~(c) "Person]~~ , *"person* with a disability" means a person:

~~[(1)]~~ *(a)* With a physical or mental impairment that substantially limits one or more of the major life activities of the person;

~~[(2)]~~ *(b)* With a record of such an impairment; or

~~[(3)]~~ *(c)* Who is regarded as having such an impairment.

~~[(d) "Residential establishment" means a home for individual residential care in a county whose population is 100,000 or more, a halfway house for recovering alcohol and drug abusers or a residential facility for groups.~~

~~(e) "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.]~~

Sec. 10. *NRS 449.040 is hereby amended to read as follows:*

449.040 Any person, state or local government or agency thereof desiring a license under the provisions of NRS 449.001 to 449.240, inclusive, must file with the Health Division an application on a form prescribed, prepared and furnished by the Health Division, containing:

1. The name of the applicant and, if a natural person, whether the applicant has attained the age of 21 years.
2. The type of facility to be operated.
3. The location of the facility.
4. In specific terms, the nature of services and type of care to be offered, as defined in the regulations.
5. The number of beds authorized by the Director of the Department of Health and Human Services or, if such authorization is not required, the number of beds the facility will contain.
6. The name of the person in charge of the facility.

7. Such other information as may be required by the Health Division for the proper administration and enforcement of NRS 449.001 to 449.240, inclusive.

8. Evidence satisfactory to the Health Division that the applicant is of reputable and responsible character. If the applicant is a firm, association, organization, partnership, business trust, corporation or company, similar evidence must be submitted as to the members thereof, and the person in charge of the facility for which application is made. If the applicant is a political subdivision of the State or other governmental agency, similar evidence must be submitted as to the person in charge of the institution for which application is made.

9. Evidence satisfactory to the Health Division of the ability of the applicant to comply with the provisions of NRS 449.001 to 449.240, inclusive, and the standards and regulations adopted by the Board.

10. Evidence satisfactory to the Health Division that the facility conforms to the zoning regulations of the local government within which the facility will be operated or that the applicant has applied for an appropriate reclassification, variance, permit for special use or other exception for the facility.

11. If the facility to be licensed is a residential establishment as defined in section 5 of this act, and if the residential establishment is subject to the distance requirements set forth in subsection 3 of NRS 278.021, evidence satisfactory to the Health Division that the residential establishment will be located and operated in accordance with the provisions of that subsection.

~~[Sec. 10.]~~ *Sec. 11.* 1. On or before December 31, 2007, the governing body of each county whose population is 100,000 or more, and the governing body of each city in such a county, shall establish by ordinance the minimum distance between residential establishments that is set forth in subsection 3 of NRS 278.021 ~~[.]~~ *, as amended by section 9 of this act.*

2. If a governing body fails to comply with the provisions of subsection 1 on or before December 31, 2007, on that date the ordinances of the governing body shall be deemed to establish by operation of law a minimum distance between residential establishments of 2,500 feet.

3. As used in this section, "residential establishment" has the meaning ascribed to it in section 5 of this act.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy, Horsford and Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 468.

Bill read second time.

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

Amendment No. 897.

"SUMMARY—Requires providers of health care to provide disclosure of certain financial interests when referring a patient to or recommending physical therapy to a patient. (BDR 54-1300)"

"AN ACT relating to providers of health care; requiring a provider of health care to provide a written disclosure of certain financial interests that he has when referring a patient to or recommending physical therapy to a patient; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires providers of health care who refer patients to or recommend physical therapy to a patient to provide a written disclosure to the patient of any financial interests that the provider of health care has in a facility recommended or to which a patient is referred. *This bill also clarifies that this new requirement does not authorize a referral or recommendation which is otherwise prohibited.*

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a provider of health care refers a patient to or recommends that a patient receive physical therapy at a specific facility in which the provider of health care has a financial interest, the provider of health care shall disclose that interest to the patient in writing in a conspicuous manner.

2. The provisions of this section do not authorize a referral or recommendation which is otherwise prohibited, including, without limitation, by the provisions of NRS 439B.425.

3. As used in this section:

(a) "Financial interest" includes, without limitation, any share in the ownership of or profit from a facility at which physical therapy is provided and any form of compensation from a facility at which physical therapy is provided for a prescription for physical therapy.

(b) "Physical therapy" has the meaning ascribed to it in NRS 640.022.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 478.

Bill read second time.

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

Amendment No. 856.

"SUMMARY—Revises provisions governing loans and loan services. (BDR 52-394)"

"AN ACT relating to financial services; making the provisions governing certain short-term loan services applicable to any person who makes a loan

pursuant to a loan agreement that charges in excess of a certain annual percentage rate regardless of the term of the loan; revising the calculation of the annual percentage rate to include certain charges and fees imposed on a customer by a licensee; revising the allowable term of certain loans; providing exemptions from certain statutory provisions; clarifying the applicability of certain provisions; making persons who violate certain provisions of federal law subject to certain remedies and penalties set forth in state law; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes standards and procedures for the licensing and regulation of loans made pursuant to loan agreements that provide for an annual percentage rate of more than 40 percent and require repayment of the loan in less than 1 year. (Chapter 604A of NRS) This bill revises the applicability of those standards and procedures to make them applicable to any person who makes a loan pursuant to a loan agreement that charges an annual percentage rate of more than 40 percent regardless of the term of the loan. This bill redefines such a loan as a "high-interest loan" and the loan service for such a loan as a "high-interest loan service." This bill also provides that, subject to certain exceptions, the original term of a deferred deposit loan ~~[must not exceed 35 days and the original term of a]~~ *or* high-interest loan must not exceed ~~[30]~~ *35* days.

Under existing law, the annual percentage rate of such loans is required to be calculated pursuant to the provisions of the Truth in Lending Act and Regulation Z. (NRS 604A.150) This bill provides an exception to that requirement by specifying that, subject to certain exceptions, every charge or fee, regardless of the name given to the charge or fee, payable directly or indirectly by the customer and imposed directly or indirectly by the lender must be included in calculating the annual percentage rate.

Existing law provides for the licensure of persons who make installment loans. (Chapter 675 of NRS) This bill provides for the licensure of such persons pursuant to chapter 604A of NRS if the loans are high-interest loans.

Existing law exempts certain persons and entities from the provisions of chapter 604A of NRS. (NRS 604A.250) This bill extends the exemption to national banking associations and their affiliates and subsidiaries, unless a purpose of the affiliation is to evade the provisions of that chapter.

Existing law exempts certain persons and entities from the provisions of chapter 675 of NRS. (NRS 675.040) This bill extends the exemption to national banking associations. This bill also clarifies the persons to whom chapter 675 of NRS applies.

Existing federal law imposes limitations on the terms of consumer credit that is extended to members of the Armed Forces of the United States who are on active duty and their dependents, including, without limitation, a prohibition against a lender imposing an interest rate greater than 36 percent. The federal law preempts any state law that is inconsistent with the federal law. (Section 670 of the John Warner National Defense Authorization Act for

Fiscal Year 2007, Public Law 109-364) This bill provides that any violation of the federal law shall be deemed to be a violation of chapter 604A of NRS, thereby making violators subject to the remedies and penalties set forth in that chapter, including the imposition of an administrative fine of not more than $10,000 for each violation, the revocation or suspension of a license issued pursuant to that chapter and civil actions for damages. (NRS 604A.820, 604A.930)

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

Section 1. Chapter 604A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[6,]~~ *6.5,* inclusive, of this act.

Sec. 2. *1. "High-interest loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms, charges an annual percentage rate of more than 40 percent.*

2. The term includes, without limitation, any single-payment loan, installment loan or open-ended loan which, under its original terms, charges an annual percentage rate of more than 40 percent.

3. The term does not include:

(a) A deferred deposit loan;

(b) A refund anticipation loan; or

(c) A title loan.

Sec. 3. *"High-interest loan service" means any person engaged in the business of providing high-interest loans for a fee, service charge or other consideration.*

Sec. 4. *1. Except as otherwise provided in this section, for the purposes of determining whether a loan is a high-interest loan, when determining whether a lender is charging an annual percentage rate of more than 40 percent, calculations must be made in accordance with the Truth in Lending Act and Regulation Z, except that every charge or fee, regardless of the name given to the charge or fee, payable directly or indirectly by the customer and imposed directly or indirectly by the lender must be included in calculating the annual percentage rate, including, without limitation:*

(a) Interest;

(b) Application fees, regardless of whether such fees are charged to all applicants or credit is actually extended;

(c) Fees charged for participation in a credit plan, whether assessed on an annual, periodic or nonperiodic basis; and

(d) Prepaid finance charges.

2. The following charges and fees must be excluded from the calculation of the annual percentage rate pursuant to subsection 1:

(a) Any fees allowed pursuant to NRS 604A.490 or 675.365 for a check not paid upon presentment or an electronic transfer of money that fails;

(b) Interest accrued after default pursuant to paragraph (c) of subsection 1 of NRS 604A.485; ~~*[and]*~~

(c) Charges for an unanticipated late payment, exceeding a credit limit, or a delinquency, default or similar occurrence ~~*[.]*~~ *; and*

(d) Any premiums or identifiable charges for insurance permitted pursuant to NRS 675.300.

3. Calculation of the annual percentage rate in the manner specified in this section is limited only to the determination of whether a loan is a high-interest loan and must not be used in compliance with the disclosure requirements of paragraph (g) of subsection 2 of NRS 604A.410 or any other provisions of this chapter requiring disclosure of an annual percentage rate in the making of a loan.

Sec. 5. *1. Except as otherwise provided in this chapter, the original term of a* ~~*[:*~~

~~*(a) Deferred]*~~ *deferred deposit loan or high-interest loan must not exceed 35 days.*

~~*[(b) High-interest loan must not exceed 30 days.]*~~

2. The original term of a high-interest loan may be up to 90 days if:

(a) The loan provides for payments in installments;

(b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;

(c) The loan is not subject to any extension; and

(d) The loan does not require a balloon payment of any kind.

3. Notwithstanding the provisions of NRS 604A.480, a licensee shall not agree to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding deferred deposit loan or high-interest loan for a period that exceeds 90 days after the date of origination of the loan.

Sec. 6. *A violation of any provision of section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this chapter.*

Sec. 6.5. All provisions of this chapter governing enforcement or collection of an obligation originated under this chapter apply to:

1. Any purchaser or assignee of the obligation; and

2. Any person seeking to enforce or collect the obligation on behalf of a licensee.

Sec. 7. NRS 604A.010 is hereby amended to read as follows:

604A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 604A.015 to 604A.125, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 604A.015 is hereby amended to read as follows:

604A.015 1. "Automated loan machine" means any machine or other device, regardless of the name given to it or the technology used, that:

(a) Is automated;

(b) Is designed or intended to allow a customer, without any additional assistance from another person, to receive or attempt to receive a deferred deposit loan or ~~[short-term]~~ *high-interest* loan through the machine or other device; and

(c) Is set up, installed, operated or maintained by or on behalf of the person making the loan or any agent, affiliate or subsidiary of the person.

2. The term does not include any machine or other device used directly by a customer to access the Internet unless the machine or other device is made available to the customer by the person making the loan or any agent, affiliate or subsidiary of the person.

Sec. 9. NRS 604A.040 is hereby amended to read as follows:

604A.040 "Customer" means any person who receives or attempts to receive check-cashing services, deferred deposit loan services, ~~[short-term]~~ *high-interest* loan services or title loan services from another person.

Sec. 10. NRS 604A.075 is hereby amended to read as follows:

604A.075 "Licensee" means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service pursuant to the provisions of this chapter.

Sec. 11. NRS 604A.080 is hereby amended to read as follows:

604A.080 "Loan" means any deferred deposit loan, ~~[short-term]~~ *high-interest* loan or title loan, or any extension or repayment plan relating to such a loan, made at any location or through any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

Sec. 11.5. NRS 604A.105 is hereby amended to read as follows:

604A.105 1. "Title loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms:

(a) Charges an annual percentage rate of more than 35 percent; and

(b) Requires the customer to secure the loan by ~~[giving]~~ *either:*

(1) Giving possession of the title to a vehicle legally owned by the customer to the ~~[person making the loan, or to]~~ *licensee or* any agent, affiliate or subsidiary of the ~~[person, whether or not the person making the loan or taking possession of the title perfects a security interest in the vehicle by having the person's name noted on the title as a lienholder.]~~ *licensee; or*

(2) Perfecting a security interest in the vehicle by having the name of the licensee or any agent, affiliate or subsidiary of the licensee noted on the title as a lienholder.

2. The term does not include ~~[:~~

~~(a) A]~~ *a* loan which creates a purchase-money security interest in a vehicle or the refinancing of any such loan . ~~[; or~~

~~(b) Any other loan for which a vehicle is used as security or collateral if the person making the loan, or any agent, affiliate or subsidiary of the person, does not take possession of the title.]~~

Sec. 12. NRS 604A.200 is hereby amended to read as follows:

604A.200 The ~~*[Notwithstanding any provision of NRS 604A.500, the]*~~ provisions of this chapter apply to any person who seeks to evade its application by any device, subterfuge or pretense, including, without limitation ~~[, calling]~~ *:*

1. Calling a loan by any other name ~~[or using]~~ *;*

2. Using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter ~~[.]~~ *; or*

3. Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 604A.250, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a ~~[material]~~ preponderant economic interest in the revenues generated by the loan.

Sec. 13. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. ~~[A]~~ *Except as otherwise provided in NRS 604A.200, a* person doing business pursuant to the authority of any law of this State or of the United States relating to banks, *national banking associations,* savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies or insurance companies ~~[.]~~ *, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.*

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than $2; and

(b) Does not hold himself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service.

Sec. 14. NRS 604A.400 is hereby amended to read as follows:

604A.400 1. A person, including, without limitation, a person licensed pursuant to chapter 675 of NRS, shall not operate a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service unless the person is licensed with the Commissioner pursuant to the provisions of this chapter.

2. A person must have a license regardless of the location or method that the person uses to operate such a service, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3.

3. A person shall not operate a deferred deposit loan service or ~~[short-term]~~ *high-interest* loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to conduct business through any automated loan machine.

4. Any person, and any member, officer, director, agent or employee thereof, who violates or participates in the violation of any provision of this section is guilty of a misdemeanor.

Sec. 15. NRS 604A.405 is hereby amended to read as follows:

604A.405 1. A licensee shall post in a conspicuous place in every location at which he conducts business under his license:

(a) A notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, ~~[short-term]~~ *high-interest* loan services or title loan services.

(b) A notice that states a toll-free telephone number to the Office of the Commissioner to handle concerns or complaints of customers.

➥ The Commissioner shall adopt regulations prescribing the form and size of the notices required by this subsection.

2. If a licensee offers loans to customers at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except for an automated loan machine prohibited by NRS 604A.400, the licensee shall, as appropriate to the location or method for making the loan, post in a conspicuous place where customers will see it before they enter into a loan, or disclose in an open and obvious manner to customers before they enter into a loan, a notice that states:

(a) The types of loans the licensee offers and the fees he charges for making each type of loan; and

(b) A list of the states where the licensee is licensed or authorized to conduct business from outside this State with customers located in this State.

3. A licensee who provides check-cashing services shall give written notice to each customer of the fees he charges for cashing checks. The customer must sign the notice before the licensee provides the check-cashing service.

Sec. 15.5. NRS 604A.410 is hereby amended to read as follows:

604A.410 1. Before making any loan to a customer, a licensee shall provide to the customer a written loan agreement which may be kept by the customer and which must be written in:

(a) English, if the transaction is conducted in English; or

(b) Spanish, if the transaction is conducted in Spanish.

2. The loan agreement must include, without limitation, the following information:

(a) The name and address of the licensee and the customer;

(b) The nature of the security for the loan, if any;

(c) The date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;

(d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;

(e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;

(f) A disclosure stating that, if the customer defaults on the loan, the ~~[customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at least 90 days, and that the]~~ licensee

must offer ~~[the]~~ *a* repayment plan to the customer before the licensee ~~*[sells or assigns the debt or]*~~ commences any civil action or process of alternative dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle; and

(g) Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.

Sec. 16. NRS 604A.420 is hereby amended to read as follows:

604A.420 1. If a customer is ~~[called to active duty in]~~ *a member of* the military, a licensee shall:

(a) ~~[Defer for the duration of the active duty all collection activity against the customer and his property, including, without limitation, any community property in which the customer has an interest; and~~

~~(b)]~~ Honor the terms of any repayment plan between the licensee and customer, including, without limitation, any repayment plan negotiated through military counselors or third-party credit counselors.

(b) Honor any proclamation by a base commander that a certain branch location of the licensee is off-limits to members of the military and their spouses.

2. ~~[When collecting any defaulted loan,]~~ *If a customer is a member of the military*, a licensee shall not:

(a) Garnish or threaten to garnish any wages or salary ~~[paid to a customer for active service in the military;]~~ *of the customer or his spouse;* or

(b) Contact or threaten to contact the military chain of command of a customer in an effort to collect the ~~[defaulted]~~ loan.

3. *If a customer is a member of the military and is deployed to a combat or combat supporting position, a licensee shall not engage in any collection activity against the customer or his spouse.*

4. As used in this section, "military" means the Armed Forces of the United States, a reserve component thereof or the National Guard.

Sec. 17. NRS 604A.425 is hereby amended to read as follows:

604A.425 1. A licensee shall not:

(a) Make a deferred deposit loan that exceeds 25 percent of the expected gross monthly income of the customer when the loan is made; or

(b) Make a ~~[short-term]~~ *high-interest* loan which, under the terms of the loan agreement, requires any monthly payment that exceeds 25 percent of the expected gross monthly income of the customer.

2. A licensee is not in violation of the provisions of this section if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that:

(a) For a deferred deposit loan, the loan does not exceed 25 percent of his expected gross monthly income when the loan is made; or

(b) For a ~~[short-term]~~ *high-interest* loan, the monthly payment required under the terms of the loan agreement does not exceed 25 percent of his expected gross monthly income.

Sec. 18. NRS 604A.430 is hereby amended to read as follows:

604A.430 *1.* A licensee shall not make more than one deferred deposit loan *, single-advance, single-payment loan* or ~~[short term]~~ *high-interest* loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:

~~[1.]~~ *(a)* The customer is seeking multiple loans that do not exceed the limits set forth in NRS 604A.425;

~~[2.]~~ *(b)* The licensee charges the same or a lower *fee or service charge per $100 if it is a deferred deposit loan or single-advance, single-payment loan, or the same or a lower* annual percentage rate *of interest if it is a high-interest loan that is not a single-advance, single-payment loan,* for any additional loans as he charged for the initial loan;

~~[3.]~~ *(c)* Except for that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or ~~[short term]~~ *high-interest* loans in accordance with the provisions of subsection 2 of NRS 604A.480 may charge a reasonable fee for preparing documents in an amount that does not exceed $50; and

~~[4.]~~ *(d)* If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment ~~[,]~~ *or one or more electronic transfers of money fail,* the licensee does not charge any fees to the customer pursuant to NRS 604A.490, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment ~~[.]~~ *or electronic transfer of money that failed.*

2. As used in this section, "single-advance, single-payment loan" means a transaction in which, pursuant to a loan agreement, a customer is given a single advance equal to the amount financed with payment in full due within 35 days after the date of the transaction.

Sec. 19. NRS 604A.435 is hereby amended to read as follows:

604A.435 A licensee shall not:

1. Accept:

(a) Collateral as security for a loan, except that a title to a vehicle may be accepted as security for a title loan.

(b) An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.

(c) A check as security for a ~~[short term]~~ *high-interest* loan or title loan.

(d) More than one check or written authorization for an electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for an electronic transfer of money for any deferred deposit loan in an amount which exceeds the total of payments set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of

every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z.

3. Take any instrument, including a check or written authorization for an electronic transfer of money, in which blanks are left to be filled in after the loan is made.

4. Make any transaction contingent on the purchase of insurance or any other goods or services or sell any insurance to the customer with the loan.

5. Fail to comply with a payment plan which is negotiated and agreed to by the licensee and customer.

6. Charge any fee to cash a check representing the proceeds of a loan made by the licensee or any agent, affiliate or subsidiary of the licensee.

Sec. 19.5. NRS 604A.445 is hereby amended to read as follows:

604A.445 Notwithstanding any other provision of this chapter to the contrary:

1. The original term of a title loan must not exceed 30 days.

2. The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:

(a) Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;

(b) The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and

(c) No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan.

3. The original term of a title loan may be up to 210 days if:

(a) The loan provides for payments in installments;

(b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;

(c) The loan is not subject to any extension; and

(d) The loan does not require a balloon payment of any kind.

Sec. 20. NRS 604A.460 is hereby amended to read as follows:

604A.460 1. A customer may rescind a loan on or before the close of business on the next day of business at the location where the loan was initiated. To rescind the loan, the customer must deliver to the licensee:

(a) A sum of money equal to the face value of the loan, less any fee charged to the customer to initiate the loan; or

(b) The original check, if any, which the licensee gave to the customer pursuant to the loan. Upon receipt of the original check, the licensee shall refund any fee charged to the customer to initiate the loan.

2. If a customer rescinds a loan pursuant to this section, the licensee:

(a) Shall not charge the customer any fee for rescinding the loan; and

(b) Upon receipt of the sum of money or check pursuant to subsection 1, shall give to the customer a receipt showing the account paid in full and:

(1) If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or written authorization stamped "void";

(2) If the customer gave to the licensee a promissory note to initiate a ~~[short-term]~~ *high-interest* loan, a copy of the promissory note stamped "void" or the receipt stamped "paid in full"; or

(3) If the customer gave to the licensee a title to a vehicle to initiate the title loan, the title.

Sec. 21. NRS 604A.465 is hereby amended to read as follows:

604A.465 1. A customer may pay a loan, or any extension thereof, in full at any time, without an additional charge or fee, before the date his final payment on the loan, or any extension thereof, is due.

2. If a customer pays the loan in full, including all interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, the licensee shall:

(a) Give to the customer:

(1) If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or the written authorization stamped "void";

(2) If the customer gave to the licensee a promissory note to initiate a ~~[short-term]~~ *high-interest* loan, the promissory note stamped "void" or a receipt stamped "paid in full"; or

(3) If the customer gave to the licensee a title to a vehicle to initiate a title loan, the title; and

(b) Give to the customer a receipt with the following information:

(1) The name and address of the licensee;

(2) The identification number assigned to the loan agreement or other information that identifies the loan;

(3) The date of the payment;

(4) The amount paid;

(5) An itemization of interest, charges and fees;

(6) A statement that the loan is paid in full; and

(7) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 21.5. NRS 604A.475 is hereby amended to read as follows:

604A.475 1. Before a licensee attempts to collect the outstanding balance on a loan in default by ~~*[assigning or selling the debt,]*~~ commencing any civil action or process of alternative dispute resolution or ~~[by]~~ repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:

(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and

(b) Is not required to make such an offer more than once for each loan.

2. ~~[Not]~~ *If the licensee intends to ~~[assign or sell the debt,]~~ commence any civil action or process of alternative dispute resolution or repossess a vehicle in an effort to collect a defaulted loan, the licensee shall deliver to the customer, not* later than 15 days after the date of default, ~~[the licensee shall provide to the customer]~~ *or not later than 5 days after a check is not paid upon presentment or an electronic transfer of money fails, whichever is later,* written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;

(b) State the date by which the customer must act to enter into a repayment plan;

(c) Explain the procedures the customer must follow to enter into a repayment plan;

(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days after the date of default; and

(f) Include the following amounts:

(1) The total of payments or the remaining balance on the original loan;

(2) Any payments made on the loan;

(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and

(4) The total amount due if the customer enters into a repayment plan.

3. Under the terms of any repayment plan pursuant to this section:

(a) The customer must enter into the repayment plan not later than 30 days after the date of default, unless the licensee allows a longer period;

(b) The licensee must allow the period for repayment to extend at least 90 days after the date of default, unless the customer agrees to a shorter term;

(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;

(d) For a deferred deposit loan:

(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for an electronic transfer of money which equal the total amount due under the terms of the repayment plan;

(2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped "void" or destroy the check or written authorization; and

(3) The licensee shall not charge any fee to the customer pursuant to NRS 604A.490 for a check which is provided as security during the repayment plan and which is not paid upon presentment if, in connection with that loan, the licensee has previously charged at least one such fee.

4. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Except as otherwise provided by this chapter, charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

(1) Any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or

(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee;

(b) Except as otherwise provided in this section, accept any additional security or collateral from the customer to enter into the repayment plan;

(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;

(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in NRS 604A.425;

(e) During the term of the repayment plan, attempt to collect the outstanding balance by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, unless the customer defaults on the repayment plan; or

(f) Attempt to collect an amount that is greater than the amount owed under the terms of the repayment plan.

5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:

(a) Prepare a written agreement establishing the repayment plan; and

(b) Give the customer a copy of the written agreement. The written agreement must:

(1) Be signed by the licensee and customer; and

(2) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan.

6. Each time a customer makes a payment pursuant to a repayment plan, the licensee shall give to the customer a receipt with the following information:

(a) The name and address of the licensee;

(b) The identification number assigned to the loan agreement or other information that identifies the loan;

(c) The date of the payment;

(d) The amount paid;

(e) The balance due on the loan or, when the customer makes the final payment, a statement that the loan is paid in full; and

(f) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

7. If the customer defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence any civil action or process of alternative dispute resolution or repossess a vehicle as otherwise authorized pursuant to this chapter.

Sec. 22. NRS 604A.480 is hereby amended to read as follows:

604A.480 1. Except as otherwise provided in subsection 2, if a customer agrees *in writing* to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or ~~[short-term]~~ *high-interest* loan to pay the balance of the outstanding loan, the licensee shall not establish or extend ~~[such a]~~ *the* period beyond 60 days after the expiration of the initial loan period. *The licensee shall not add any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.*

2. This section does not apply to a *new* deferred deposit loan or ~~[short-term]~~ *high-interest* loan if the licensee:

(a) Makes the *new* deferred deposit loan or ~~[short-term]~~ *high-interest* loan to a customer pursuant to a loan agreement which, under its original terms:

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

(3) Requires the loan to be paid in full in not less than 150 days; and

(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;

(b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;

(c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;

(d) Gives the customer the right to rescind the *new* deferred deposit loan or ~~[short-term]~~ *high-interest* loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;

(e) Participates in good faith with a counseling agency that is:

(1) Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and

(2) A member of the National Foundation for Credit Counseling, or its successor organization; and

(f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

Sec. 22.5. NRS 604A.485 is hereby amended to read as follows:

604A.485 1. ~~[Except as otherwise provided in NRS 604A.445, if]~~ *If* a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:

(a) The *unpaid* principal amount of the loan.

(b) The *unpaid* interest *, if any,* accrued before the ~~[expiration of the initial loan period]~~ *default* at the annual percentage rate set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer. If there is an extension *, in writing and signed by the customer,* relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 60 days after the expiration of the initial loan period, unless otherwise allowed by NRS 604A.480.

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to this chapter, whichever is later, at an annual percentage rate not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 90 days. After that period, the licensee shall not charge or collect any interest on the loan.

(d) Any fees allowed pursuant to NRS 604A.490 for a check that is not paid upon presentment *or an electronic transfer of money that fails* because the account of the customer contains insufficient funds or has been closed.

➥ *The sum of all amounts collected pursuant to paragraphs (b), (c) and (d) must not exceed the principal amount of the loan.*

2. Except for the interest and fees permitted pursuant to subsection 1 and any other charges expressly permitted pursuant to NRS 604A.430, 604A.445 and 604A.475, the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such ~~[an amount includes,]~~ *prohibited amounts include,* without limitation:

(a) Any interest, other than the interest charged pursuant to subsection 1, regardless of the name given to the interest; or

(b) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee.

Sec. 22.7. NRS 604A.490 is hereby amended to read as follows:

604A.490 1. A licensee may collect a fee of not more than $25 if a check is not paid upon presentment *or an electronic transfer of money fails* because the account of the customer contains insufficient funds or has been closed.

2. If the account of the customer contains insufficient funds, the licensee may collect only two fees of $25 each regardless of the number of times the check is presented for payment ~~[.]~~ *or the electronic transfer of money is attempted.*

3. If the account of the customer has been closed, the licensee may collect only one fee of $25 regardless of the number of times the check is presented *or the electronic transfer of money is attempted* for payment.

4. A customer is not liable for damages pursuant to NRS 41.620 or to criminal prosecution for a violation of chapter 205 of NRS unless the customer acted with criminal intent.

Sec. 23. NRS 604A.655 is hereby amended to read as follows:

604A.655 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

(1) The licensee and the mortgage broker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage broker is licensed by this State pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

(b) A mortgage banker if:

(1) The licensee and the mortgage banker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

3. If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service, the pawnbroker may operate that service at the same office or

place of business from which he conducts business as a pawnbroker pursuant to chapter 646 of NRS.

Sec. 24. NRS 604A.710 is hereby amended to read as follows:

604A.710 1. For the purpose of discovering violations of this chapter or ~~[of]~~ securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business of making loans or participating in such business as principal, agent, broker or otherwise; and

(c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, and the files, safes and vaults of such persons.

3. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, ~~[short-term]~~ *high-interest* loan or title loan is presumed to be engaged in the business of making loans.

Sec. 25. NRS 604A.920 is hereby amended to read as follows:

604A.920 If a person operates a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service without obtaining a license pursuant to this chapter:

1. Any contracts entered into by that person for the cashing of a check or for a deferred deposit loan, ~~[short-term]~~ *high-interest* loan or title loan are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the other party to the contract may bring a civil action against the person pursuant to NRS 604A.930.

Sec. 26. NRS 604A.930 is hereby amended to read as follows:

604A.930 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of NRS 604A.400, 604A.410 to 604A.500, inclusive, 604A.610, 604A.615, 604A.650 or 604A.655 *or section 6 of this act* or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for *:* ~~[any or all of the following relief:]~~

(a) Actual and consequential damages;

(b) Punitive damages, which are subject to the provisions of NRS 42.005;

(c) Reasonable attorney's fees and costs; and

(d) Any other legal or equitable relief that the court deems appropriate.

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against

a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to $1,000 for each violation if the person knowingly:

(a) Operates a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service without a license, in violation of NRS 604A.400;

(b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of NRS 604A.410;

(c) Violates any provision of NRS 604A.420;

(d) Accepts collateral or security for a deferred deposit loan, in violation of NRS 604A.435, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;

(e) Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of NRS 604A.440;

(f) Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of NRS 604A.440;

(g) Violates any provision of NRS 604A.485; ~~[or]~~

(h) Violates any provision of NRS 604A.490 ~~[.]~~ *; or*

(i) Violates any provision of section 6 of this act.

3. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error.

Sec. 27. NRS 99.050 is hereby amended to read as follows:

99.050 ~~[Parties]~~ *Except as otherwise provided in section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto, parties* may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

Sec. 28. Chapter 675 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of this chapter apply to any person who:

1. Makes installment loans that are not subject to regulation pursuant to chapter 604A of NRS;

2. Is an affiliate , subsidiary or holding company of a bank, national banking association, savings bank, trust company, savings and loan association, credit union, development corporation, mortgage broker, mortgage banker, thrift company or insurance company; or

3. Seeks to evade its application by any device, subterfuge or pretense, including, without limitation:

(a) Calling a loan by any other name;

(b) Using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or

(c) Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 675.040, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a material economic interest in the revenues generated by the loan.

Sec. 29. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. ~~[A]~~ *Except as otherwise provided in section 28 of this act, a* person doing business under the authority of any law of this State or of the United States relating to banks, *national banking associations,* savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.

Sec. 29.5. NRS 675.060 is hereby amended to read as follows:

675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this chapter for each office or other place of business at which the person engages in such business, except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service, as those terms are defined in chapter 604A of NRS, the person must obtain a license from the Commissioner pursuant to chapter 604A of NRS before the person may engage in any such business.

2. For the purpose of this section, a person engages in the business of lending in this State if he:

(a) Solicits loans in this State or makes loans to persons in this State, unless these are isolated, incidental or occasional transactions; or

(b) Is located in this State and solicits loans outside of this State or makes loans to persons located outside of this State, unless these are isolated, incidental or occasional transactions.

Sec. 29.7. NRS 675.365 is hereby amended to read as follows:

675.365 In addition to the interest allowed pursuant to NRS 675.363, a licensee may, pursuant to the agreement for a loan for an indefinite term, receive from the borrower or add to the unpaid balance in that borrower's account:

1. Any fees imposed on the licensee pursuant to this chapter;

2. Any charge for insurance under NRS 675.300;

3. A charge not exceeding 25 cents for each transaction in which a loan or advance is made pursuant to the agreement or an annual fee for the use of an open-end account in an amount not to exceed $20;

4. If the interest calculated for any billing cycle pursuant to NRS 675.363 is less than 50 cents:

(a) For a billing cycle which is monthly or longer, a charge in an amount not exceeding 50 cents; or

(b) For a billing cycle less than monthly, a charge in an amount equal to that portion of 50 cents which bears the same relation to 50 cents as the number of days in the billing cycle bear to 365 divided by 12;

5. For any check written by the borrower to the licensee which is returned ~~[for]~~ *, or any electronic transfer of money that fails, because of*

insufficient funds, a charge of $10 or in an amount equal to the charges imposed on the licensee because of his reliance on that check ~~[,]~~ *or electronic transfer of money*, whichever amount is greater; and

6. Any charge assessed the licensee by a third party for the printing and distribution of any checks, drafts or other instruments to be used by the borrower in obtaining advances pursuant to the agreement.

Sec. 30. NRS 604A.095 and 604A.100 are hereby repealed.

Sec. 31. Any license to operate a short-term loan service that was issued by the Commissioner of Financial Institutions pursuant to chapter 604A of NRS before ~~[July]~~ *October* 1, 2007, shall be deemed to be a license to operate a high-interest loan service which was issued by the Commissioner pursuant to the provisions of chapter 604A of NRS and which expires on the date on which the license to operate a short-term loan service would have expired pursuant to the provisions of NRS 604A.640.

Sec. 32. 1. A license to engage in the business of lending in this State which was issued by the Commissioner of Financial Institutions pursuant to chapter 675 of NRS before ~~[July]~~ *October* 1, 2007, to a person who, pursuant to the provisions of this act, is subject to regulation only pursuant to chapter 604A of NRS, shall be deemed to be a license issued by the Commissioner pursuant to chapter 604A of NRS. Such a license expires on December 31, 2007, and may be renewed on or before its expiration in accordance with NRS 604A.640. Upon the renewal of such a license, the Commissioner shall issue to the holder of the license a license pursuant to chapter 604A of NRS in lieu of the license issued pursuant to chapter 675 of NRS.

2. Any person who is licensed pursuant to chapter 675 of NRS to engage in the business of lending in this State on ~~[June]~~ *September* 30, 2007, may continue to operate in the same location upon becoming licensed pursuant to chapter 604A of NRS, notwithstanding any ordinance or other zoning regulation to the contrary. This subsection does not exempt such a person from any provision of chapter 604A of NRS or any regulation adopted pursuant thereto.

Sec. 33. The amendatory provisions of this act do not apply to loans entered into before ~~[July]~~ *October* 1, 2007.

Sec. 34. This act becomes effective on ~~[July]~~ *October* 1, 2007.

TEXT OF REPEALED SECTIONS

604A.095 "Short-term loan" defined.

1. "Short-term loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms:

(a) Charges an annual percentage rate of more than 40 percent; and

(b) Requires the loan to be paid in full in less than 1 year.

2. The term does not include:

(a) A deferred deposit loan;

(b) A title loan; or

(c) A refund anticipation loan.

604A.100 "Short-term loan service" defined. "Short-term loan service" means any person engaged in the business of providing short-term loans for a fee, service charge or other consideration.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 496.

Bill read second time.

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

Amendment No. 898.

"SUMMARY—Makes various changes concerning workers' compensation. (BDR 53-897)"

"AN ACT relating to workers' compensation; revising various duties of employers, insurers and claimants under the workers' compensation system; revising certain procedures for accepting and denying workers' compensation claims; revising certain provisions relating to occupational diseases; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the payment of workers' compensation if, during the course of employment, an employee is injured or killed by a workplace accident or occupational disease. (Chapters 616A-617 of NRS) Existing law authorizes an employer, after a workplace accident, to furnish the injured employee with the name of at least one physician or chiropractor qualified to examine the employee, but the employer may not require the employee to select any particular physician or chiropractor for the examination. The examining physician or chiropractor must report to the employer regarding the character and extent of the injury, but the employer may not require or permit the disclosure of any other information concerning the employee's physical condition. (NRS 616C.010)

Section 1 of this bill requires ~~[the]~~ *an* employer *whose insurer has contracted with certain managed care organizations or providers of health care services* to furnish the injured employee with the names of at least two physicians or chiropractors *who are* qualified to examine the employee ~~[.]~~ *and who are available pursuant to the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment. If there are not two such physicians or chiropractors within that area, the employer is required to furnish the name of at least one physician who is qualified to examine the employee and available pursuant to the contract. Further, section 1 imposes similar requirements upon employers whose insurers have not contracted with such managed care organizations or providers of health care services, except that the employers are required to furnish only the names of physicians and chiropractors who are qualified*

to conduct the examinations without regard as to whether they are available pursuant to any particular contract. From among ~~[those names,]~~ *the names furnished by the employer,* the employee must select one of those physicians or chiropractors to conduct the examination, but the employee is not required to select a particular physician or chiropractor ~~[preferred by the employer]~~ from among the names furnished. Section 1 of this bill also clarifies that the employer shall not require or permit the disclosure of any other information concerning the employee's physical condition except as required by NRS 616C.177, which permits an insurer to inquire about and request medical records concerning a preexisting medical condition that is reasonably related to the industrial injury of the injured employee.

Existing law requires an insurer to accept or deny claims involving industrial injuries and occupational diseases within a certain period. (NRS 616C.065, 617.356) Sections 1.5 and 3 of this bill require the insurer to mail its written determination regarding a claim to the claimant or the person acting on behalf of the claimant within the specified period and *, if the insurer denies the claim in whole or in part,* to obtain a certificate of mailing at the time the written determination *of the denial of the claim* is delivered to the United States Postal Service for mailing. The certificate of mailing serves as a receipt that shows the date on which the insurer mailed the written determination ~~[.]~~ *of the denial of a claim.*

Existing law establishes certain general requirements which are used to determine whether a disease is compensable as an occupational disease. (NRS 617.440) However, existing law also provides that for some specific diseases, such as certain cancers, lung diseases, heart diseases and contagious diseases, there is a legal presumption that those diseases are compensable under the workers' compensation system when contracted under certain specific circumstances, such as when contracted by firefighters, police officers and emergency medical attendants. (NRS 617.453, 617.455, 617.457, ~~[617.481,]~~ 617.485 *, 617.487*) Section 4 of this bill provides that the general requirements of NRS 617.440 do not apply to the specific provisions of existing law which create such legal presumptions.

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

Section 1. NRS 616C.010 is hereby amended to read as follows:

616C.010 1. Whenever any accident occurs to any employee, he shall forthwith report the accident and the injury resulting therefrom to his employer.

2. When an employer learns of an accident, whether or not it is reported, the employer may direct the employee to submit to, or the employee may request, an examination by a physician or chiropractor, in order to ascertain the character and extent of the injury and render medical attention which is required immediately. The employer ~~[may]~~ *shall :*

(a) If the employer's insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to

NRS 616B.527, furnish the names, addresses and telephone numbers of ~~[one] [two]~~ *:*

(1) Two or more physicians or chiropractors ~~[,]~~ *who are qualified to conduct the examination ~~[,]~~ and who are available pursuant to the terms of the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or*

(2) One or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

(b) If the employer's insurer has not entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

(1) Two or more physicians or chiropractors who are qualified to conduct the examination, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

3. From among the names furnished by the employer ~~[,]~~ pursuant to subsection 2, the employee shall select one of those physicians or chiropractors to conduct the examination, but ~~[may]~~ *the employer shall* not require the employee to select ~~[any]~~ *a* particular physician or chiropractor ~~[.] [preferred by the employer]~~ *from among the names furnished by the employer.* Thereupon, the examining physician or chiropractor shall report forthwith to the employer and to the insurer the character and extent of the injury. The employer shall not require the employee to disclose or permit the disclosure of any other information concerning his physical condition ~~[.]~~ *except as required by NRS 616C.177.*

~~[3.]~~ *4.* Further medical attention, except as otherwise provided in NRS 616C.265, must be authorized by the insurer.

~~[4.]~~ *5.* This section does not prohibit an employer from requiring the employee to submit to an examination by a physician or chiropractor specified by the employer at any convenient time after medical attention which is required immediately has been completed.

Sec. 1.5. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) ~~[Commence payment of]~~ *Accept* a claim for compensation ~~[;]~~ *, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim;* or

(b) Deny the claim and notify the claimant *or the person acting on behalf of the claimant* and *the* Administrator that the claim has been denied.

~~[➥]~~

2. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

~~[2.]~~ *3.* Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

4. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) ~~[Obtaining]~~ If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

5. The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection 4 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

6. Upon request, the insurer shall provide a copy of the certificate of mailing , if any, to the claimant or the person acting on behalf of the claimant.

7. For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

8. As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 617.356 is hereby amended to read as follows:

617.356 *1.* An insurer shall accept or deny ~~[responsibility]~~ *a claim* for compensation under this chapter *and notify the claimant or the person acting on behalf of the claimant pursuant to NRS 617.344 that the claim has been accepted or denied* within 30 working days after ~~[claims]~~ *the forms for filing the claim* for compensation are received pursuant to both NRS 617.344 and 617.352.

2. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) ~~[Obtaining]~~ If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

3. The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection 2 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

4. Upon request, the insurer shall provide a copy of the certificate of mailing , if any, to the claimant or the person acting on behalf of the claimant.

5. For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

6. As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 4. NRS 617.440 is hereby amended to read as follows:

617.440 1. An occupational disease defined in this chapter shall be deemed to arise out of and in the course of the employment if:

(a) There is a direct causal connection between the conditions under which the work is performed and the occupational disease;

(b) It can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment;

(c) It can be fairly traced to the employment as the proximate cause; and

(d) It does not come from a hazard to which workmen would have been equally exposed outside of the employment.

2. The disease must be incidental to the character of the business and not independent of the relation of the employer and employee.

3. The disease need not have been foreseen or expected, but after its contraction must appear to have had its origin in a risk connected with the employment, and to have flowed from that source as a natural consequence.

4. In cases of disability resulting from radium poisoning or exposure to radioactive properties or substances, or to roentgen rays (X rays) or ionizing radiation, the poisoning or illness resulting in disability must have been contracted in the State of Nevada.

5. The requirements set forth in this section do not apply to claims filed pursuant to NRS 617.453, 617.455, 617.457, ~~[617.481 or]~~ 617.485 ~~[.]~~ or 617.487.

Sec. 5. This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 497.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 928.

"SUMMARY—Makes various changes to provisions governing driver's licenses and public safety. (BDR 43-642)"

"AN ACT relating to public safety; *revising provisions relating to services provided for the control of vehicular traffic related to a special event; requiring proof of insurance to be contained in an application for the registration of a motor vehicle;* transferring certain duties for training peace officers from the Department of Motor Vehicles to the Department of Public Safety; revising provisions governing the revocation of driver's licenses; prohibiting a person who has a temporary driver's license from obtaining another temporary license in certain circumstances; revising provisions governing the issuance of motor vehicle insurance; revising provisions relating to the security that must be deposited when a report of certain motor vehicle accidents involving injury, death or damage to property is received by the Department of Motor Vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the Nevada Highway Patrol may enter into a contract with any person to provide services for the control of vehicular traffic related to a special event. (NRS 480.340) Section 1 of this bill provides that any qualified personnel of the Department of Public Safety, as well as the Nevada Highway Patrol, may provide services for the control of vehicular traffic pursuant to the contract.

Section ~~[1]~~ *1.3* of this bill *requires an application for the registration of a motor vehicle to contain proof satisfactory to the Department of Motor Vehicles that the applicant has provided the insurance required by law, in lieu of signing a declaration indicating that he has provided the insurance. (NRS 482.215, 485.185)*

Section 1.7 of this bill transfers the duty of training peace officers in identifying and handling drivers who suffer from ~~[insulin shock]~~ *a diabetic condition* or epileptic seizures from the Department of Motor Vehicles to the Department of Public Safety. (NRS 483.348)

Existing law requires the Department of Motor Vehicles to revoke the driver's license of a person who is convicted of certain felonies involving the use of a vehicle. Existing law further requires the Department to set aside the revocation during any period of imprisonment until the period of imprisonment is completed or until the person has been placed on residential confinement. (NRS 483.460) Sections 2, 11 and 12 of this bill provide instead that the revocation will resume when the Department is notified by the Department of Corrections or the Department of Public Safety that the person has completed his period of imprisonment or has been placed on residential confinement or parole.

Existing law requires a law enforcement officer to revoke the driver's license, permit or privilege to drive of a person who has a concentration of alcohol of 0.08 or more in his blood or breath or who is found to have a detectable amount of a prohibited substance in his blood or urine. The officer is required to advise the person of his right to administrative and judicial review of the revocation and to have a temporary license, valid for 7 days, which the officer must issue upon request. (NRS 484.385) In addition, if the person requests administrative review of the revocation, the Department of Motor Vehicles is required to issue an additional temporary license which is valid for a period sufficient to complete the administrative review. (NRS 484.387) Sections 3-6 of this bill provide that a person driving with a temporary permit is not entitled to receive an additional temporary permit if he is found again to have driven with a prohibited amount of alcohol in his blood or breath or a prohibited substance in his blood or urine.

Existing law requires each owner of a motor vehicle to maintain a certain amount of insurance against bodily injury or death. (NRS 485.185) Section 7 of this bill requires that such insurance must be obtained from a company that is licensed and has been approved to do business in this State.

Existing law requires the Department of Motor Vehicles to suspend the driver's license or privilege to drive and the motor vehicle registrations of each owner of a motor vehicle involved in a motor vehicle accident involving injury or death when it is determined that the required security has not been deposited and the person has not been released from liability and has not executed an agreement to pay in installments. Existing law requires notice of the suspension to be sent to the person at least 10 days before the effective date of the suspension. (NRS 485.190) Section 8 of this bill requires the suspension to be effective immediately after the determination is made unless the person immediately deposits the security at the hearing.

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

Section 1. *NRS 480.340 is hereby amended to read as follows:*

480.340 1. Except as otherwise provided in this section, the Chief of the Nevada Highway Patrol may enter into a contract with any person or governmental agency to provide services for the control of vehicular traffic related to or affected by any special event sponsored by the person or agency.

2. Any such contract:

(a) Must require the sponsor of the special event to reimburse the Nevada Highway Patrol for the cost of the services provided.

(b) May require the sponsor to furnish a bond to ensure that reimbursement is made.

(c) Is subject to the following limitations:

(1) The services provided pursuant to the contract must be provided by personnel of the Nevada Highway Patrol ~~[.]~~ *or other qualified personnel of the Department.*

(2) The services required must not impair the ability of the Nevada Highway Patrol to perform its customary duties.

3. Any money received by the Nevada Highway Patrol pursuant to such a contract must be deposited with the State Treasurer for credit to the State Highway Fund.

4. As used in this section, "special event" has the meaning ascribed to it in NRS 484.900.

Sec. 1.3. NRS 482.215 is hereby amended to read as follows:

482.215 1. All applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) His residential address.

(c) His declaration of the county where he intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5, *proof satisfactory to the Department or registered dealer that the applicant has provided the insurance required by NRS 485.185 and* a declaration signed by the applicant that he ~~[has provided the insurance required by NRS 485.185 and]~~ will maintain the insurance during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this paragraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance:

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle and indicates, at the time of application for registration, coverage which meets the requirements of NRS 485.185; or

(3) In another form satisfactory to the Department.

➥ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

~~[Section 1.]~~ *Sec. 1.7.* NRS 483.348 is hereby amended to read as follows:

483.348 1. Except as otherwise provided in subsection 2, the Department shall issue a driver's license with a specially colored background to any person who qualifies for a driver's license pursuant to the provisions of this chapter and delivers to the Department a signed statement from a physician that the person is an insulin dependent diabetic or an epileptic. The Department shall designate one color to be used only for a driver's license held by a diabetic and another color to be used only for a driver's license held by an epileptic.

2. In lieu of issuing a driver's license pursuant to subsection 1, the Department may issue to a person specified in that subsection a driver's license with a specially colored border around the photograph on the license.

3. The Department *of Public Safety* shall provide for the education of peace officers on the:

(a) Effects and treatment of a person suffering from ~~[insulin shock]~~ *a diabetic condition* or an epileptic seizure and the similarity in appearance of a person suffering from ~~[insulin shock]~~ *a diabetic condition* or an epileptic seizure to a person under the influence of alcohol or a controlled substance; and

(b) Procedures for identifying and handling situations involving a person suffering from ~~[insulin shock]~~ *a diabetic condition* or an epileptic seizure.

Sec. 2. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 2 of NRS 484.377.

(2) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792.

(3) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955.

➥ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume ~~[upon completion of]~~ *when the Department is notified pursuant to section 11 or 12 of this act that the person has completed* the period of imprisonment or ~~[when]~~ *that* the person ~~[is]~~ *has been* placed on residential confinement ~~[.]~~ *or parole.*

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 3. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.08 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial

review of the revocation ~~[and to have a]~~ *pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a* temporary license . ~~[, and]~~ *If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer* shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.08 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.08 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 4. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.10 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~[and to have a]~~ *pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a* temporary license . ~~[, and]~~ *If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer* shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.10 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.10 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided

in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 5. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. ~~[The]~~ *Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the* Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.08 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 6. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant

books and papers and may require a reexamination of the requester. ~~[The]~~ *Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the* Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.10 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 7. NRS 485.185 is hereby amended to read as follows:

485.185 Every owner of a motor vehicle which is registered or required to be registered in this State shall continuously provide, while the motor vehicle is present or registered in this State, insurance ~~[:]~~ *provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State:*

1. In the amount of $15,000 for bodily injury to or death of one person in any one accident;

2. Subject to the limit for one person, in the amount of $30,000 for bodily injury to or death of two or more persons in any one accident; and

3. In the amount of $10,000 for injury to or destruction of property of others in any one accident,

➥ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

Sec. 8. NRS 485.190 is hereby amended to read as follows:

485.190 1. If 20 days after the receipt of a report of an accident involving a motor vehicle within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of $750, the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under subsection 2 ~~[of this section]~~ has been released from liability, has been finally adjudicated not to be liable or has executed an acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the

Department shall upon request set the matter for a hearing as provided in NRS 485.191.

2. The Department shall ~~[, at any time]~~ , *immediately* after a determination adverse to an operator or owner *is made in a hearing* pursuant to NRS 485.191, suspend the license of each operator and all registrations of each owner of a motor vehicle involved in such an accident, and, if the operator is a nonresident, the privilege of operating a motor vehicle within this State, and, if the owner is a nonresident, the privilege of the use within this State of any motor vehicle owned by him, unless the operator or owner, or both, *immediately* deposit security in the sum so determined by the Department ~~[. Notice of such a suspension must be sent by the Department to the operator and owner not less than 10 days before the effective date of the suspension and must state the amount required as security.]~~ *at the hearing.* If erroneous information is given to the Department with respect to the matters set forth in paragraph (a), (b) or (c) of subsection 1 of NRS 485.200, the Department shall take appropriate action as provided in this section after it receives correct information with respect to those matters.

Sec. 9. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment ~~[,]~~ *that was entered as a result of an accident involving a motor vehicle,* the judgment creditor or his attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment *that was entered as a result of an accident involving a motor vehicle and* reported to the Department is a nonresident, the Department shall transmit a certified copy of the judgment to the officer in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

Sec. 10. NRS 485.3099 is hereby amended to read as follows:

485.3099 1. The Department shall, upon request, consent to the immediate cancellation of any certificate of financial responsibility or waive the requirement of filing proof of financial responsibility, in ~~[any of]~~ the following events:

(a) ~~[At any time after 3 years after the date the proof of financial responsibility was required when, during the 3-year period preceding the request, the Department has not received a record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom the proof of financial responsibility was furnished;~~

~~(b)]~~ The death of the person on whose behalf the proof of financial responsibility was filed or the permanent incapacity of the person to operate a motor vehicle; or

~~[(c)]~~ *(b)* If the person who is required to file proof of financial responsibility surrenders his license and registration to the Department.

2. If a person who surrenders his license and registration pursuant to paragraph ~~[(c)]~~ *(b)* of subsection 1 applies for a license or registration within a period of 3 years after the date proof of financial responsibility was originally required, the application must be refused unless the applicant reestablishes proof of financial responsibility for the remainder of the 3-year period.

Sec. 11. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 has completed a period of imprisonment or is placed on residential confinement. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment or when the person is placed on residential confinement.

Sec. 12. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

The Chief shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 is placed on parole. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment or when the person is placed on residential confinement.

Sec. 13. 1. This section and ~~[sections 1,]~~ *section 1 of this act become effective upon passage and approval.*

2. Sections 1.3, 1.7, 3, 5 and 7 to 10, inclusive, of this act become effective on October 1, 2007.

~~[2.]~~ *3.* Sections 2, 11 and 12 of this act become effective on March 1, 2008.

~~[3.]~~ *4.* Sections 3 and 5 of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

~~[4.]~~ *5.* Sections 4 and 6 of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

The following amendment was proposed by Senator Lee:

Amendment No. 943.

"SUMMARY—Makes various changes to provisions governing driver's licenses and public safety. (BDR 43-642)"

"AN ACT relating to public safety; transferring certain duties for training peace officers from the Department of Motor Vehicles to the Department of Public Safety; revising provisions governing the revocation of driver's licenses; prohibiting a person who has a temporary driver's license from obtaining another temporary license in certain circumstances; revising provisions governing the issuance of motor vehicle insurance; revising provisions relating to the security that must be deposited when a report of certain motor vehicle accidents involving injury, death or damage to property is received by the Department of Motor Vehicles; *requiring the City of North Las Vegas to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill transfers the duty of training peace officers in identifying and handling drivers who suffer from insulin shock or epileptic seizures from the Department of Motor Vehicles to the Department of Public Safety. (NRS 483.348)

Existing law requires the Department of Motor Vehicles to revoke the driver's license of a person who is convicted of certain felonies involving the use of a vehicle. Existing law further requires the Department to set aside the revocation during any period of imprisonment until the period of imprisonment is completed or until the person has been placed on residential confinement. (NRS 483.460) Sections 2, 11 and 12 of this bill provide instead that the revocation will resume when the Department is notified by the Department of Corrections or the Department of Public Safety that the person has completed his period of imprisonment or has been placed on residential confinement or parole.

Existing law requires a law enforcement officer to revoke the driver's license, permit or privilege to drive of a person who has a concentration of alcohol of 0.08 or more in his blood or breath or who is found to have a detectable amount of a prohibited substance in his blood or urine. The officer is required to advise the person of his right to administrative and judicial review of the revocation and to have a temporary license, valid for 7 days, which the officer must issue upon request. (NRS 484.385) In addition, if the person requests administrative review of the revocation, the Department of Motor Vehicles is required to issue an additional temporary license which is valid for a period sufficient to complete the administrative review. (NRS 484.387) Sections 3-6 of this bill provide that a person driving with a temporary permit is not entitled to receive an additional temporary permit if

he is found again to have driven with a prohibited amount of alcohol in his blood or breath or a prohibited substance in his blood or urine.

Existing law requires each owner of a motor vehicle to maintain a certain amount of insurance against bodily injury or death. (NRS 485.185) Section 7 of this bill requires that such insurance must be obtained from a company that is licensed and has been approved to do business in this State.

Existing law requires the Department of Motor Vehicles to suspend the driver's license or privilege to drive and the motor vehicle registrations of each owner of a motor vehicle involved in a motor vehicle accident involving injury or death when it is determined that the required security has not been deposited and the person has not been released from liability and has not executed an agreement to pay in installments. Existing law requires notice of the suspension to be sent to the person at least 10 days before the effective date of the suspension. (NRS 485.190) Section 8 of this bill requires the suspension to be effective immediately after the determination is made unless the person immediately deposits the security at the hearing.

Section 12.5 of this bill requires the City of North Las Vegas to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation. The section expires by limitation on June 30, 2011.

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

~~Section 1~~ NRS 483.348 is hereby amended to read as follows:

483.348 1. Except as otherwise provided in subsection 2, the Department shall issue a driver's license with a specially colored background to any person who qualifies for a driver's license pursuant to the provisions of this chapter and delivers to the Department a signed statement from a physician that the person is an insulin dependent diabetic or an epileptic. The Department shall designate one color to be used only for a driver's license held by a diabetic and another color to be used only for a driver's license held by an epileptic.

2. In lieu of issuing a driver's license pursuant to subsection 1, the Department may issue to a person specified in that subsection a driver's license with a specially colored border around the photograph on the license.

3. The Department *of Public Safety* shall provide for the education of peace officers on the:

(a) Effects and treatment of a person suffering from insulin shock or an epileptic seizure and the similarity in appearance of a person suffering from insulin shock or an epileptic seizure to a person under the influence of alcohol or a controlled substance; and

(b) Procedures for identifying and handling situations involving a person suffering from insulin shock or an epileptic seizure.

Sec. 2. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon

receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 2 of NRS 484.377.

(2) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792.

(3) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955.

➥ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume ~~[upon completion of]~~ *when the Department is notified pursuant to section 11 or 12 of this act that the person has completed* the period of imprisonment or ~~[when]~~ *that* the person ~~[is]~~ *has been* placed on residential confinement ~~[.]~~ *or parole.*

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 has been permitted to enter a

program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 3. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.08 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~[and to have a]~~ *pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a* temporary license . ~~[, and]~~ *If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer* shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not

then present, had a concentration of alcohol of 0.08 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.08 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 4. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.10 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~[and to have a]~~ *pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a* temporary license . ~~[, and]~~ *If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer* shall issue him a

temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.10 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.10 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 5. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant

books and papers and may require a reexamination of the requester. ~~[The]~~ *Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the* Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.08 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 6. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. ~~[The]~~ *Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the* Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.10 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the

issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 7. NRS 485.185 is hereby amended to read as follows:

485.185 Every owner of a motor vehicle which is registered or required to be registered in this State shall continuously provide, while the motor vehicle is present or registered in this State, insurance ~~[:]~~ *provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State:*

1. In the amount of $15,000 for bodily injury to or death of one person in any one accident;

2. Subject to the limit for one person, in the amount of $30,000 for bodily injury to or death of two or more persons in any one accident; and

3. In the amount of $10,000 for injury to or destruction of property of others in any one accident,

➥ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

Sec. 8. NRS 485.190 is hereby amended to read as follows:

485.190 1. If 20 days after the receipt of a report of an accident involving a motor vehicle within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of $750, the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under subsection 2 ~~[of this section]~~ has been released from liability, has been finally adjudicated not to be liable or has executed an acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Department shall upon request set the matter for a hearing as provided in NRS 485.191.

2. The Department shall ~~[, at any time]~~ , *immediately* after a determination adverse to an operator or owner *is made in a hearing* pursuant to NRS 485.191, suspend the license of each operator and all registrations of each owner of a motor vehicle involved in such an accident, and, if the operator is a nonresident, the privilege of operating a motor vehicle within this State, and, if the owner is a nonresident, the privilege of the use within this State of any motor vehicle owned by him, unless the operator or owner, or both, *immediately* deposit security in the sum so determined by the Department ~~[. Notice of such a suspension must be sent by the Department to the operator and owner not less than 10 days before the effective date of the suspension and must state the amount required as security.]~~ *at the hearing.* If erroneous information is given to the Department with respect to the matters

set forth in paragraph (a), (b) or (c) of subsection 1 of NRS 485.200, the Department shall take appropriate action as provided in this section after it receives correct information with respect to those matters.

Sec. 9. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment ~~[,]~~ *that was entered as a result of an accident involving a motor vehicle*, the judgment creditor or his attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment *that was entered as a result of an accident involving a motor vehicle and* reported to the Department is a nonresident, the Department shall transmit a certified copy of the judgment to the officer in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

Sec. 10. NRS 485.3099 is hereby amended to read as follows:

485.3099 1. The Department shall, upon request, consent to the immediate cancellation of any certificate of financial responsibility or waive the requirement of filing proof of financial responsibility, in ~~[any of]~~ the following events:

(a) ~~[At any time after 3 years after the date the proof of financial responsibility was required when, during the 3-year period preceding the request, the Department has not received a record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom the proof of financial responsibility was furnished;~~

~~(b)]~~ The death of the person on whose behalf the proof of financial responsibility was filed or the permanent incapacity of the person to operate a motor vehicle; or

~~[(c)]~~ *(b)* If the person who is required to file proof of financial responsibility surrenders his license and registration to the Department.

2. If a person who surrenders his license and registration pursuant to paragraph ~~[(c)]~~ *(b)* of subsection 1 applies for a license or registration within a period of 3 years after the date proof of financial responsibility was originally required, the application must be refused unless the applicant reestablishes proof of financial responsibility for the remainder of the 3-year period.

Sec. 11. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 has completed a period of imprisonment or is placed on residential confinement. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during

any period of imprisonment or when the person is placed on residential confinement.

Sec. 12. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

The Chief shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 is placed on parole. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment or when the person is placed on residential confinement.

Sec. 12.5. 1. Notwithstanding the provisions of NRS 484.910, the Department of Transportation shall adopt regulations establishing a pilot program for the City of North Las Vegas to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation:

(a) For a violation of chapter 484 of NRS; or

(b) For a violation of a municipal ordinance.

2. The regulations adopted pursuant to subsection 1 must set forth, without limitation:

(a) That the penalty for a violation evidenced through the use of an automated enforcement system will be the lowest penalty imposed for the violation of a law or ordinance governing parking which the Department of Transportation determines is sufficient to pay the costs of administering the pilot program.

(b) That a citation issued through the use of an automated enforcement system must:

(1) Insofar as practicable, comply with the applicable provisions of NRS 484.799;

(2) Be issued to the registered owner of the vehicle;

(3) Include or be accompanied by a photograph of the driver;

(4) Be mailed or otherwise delivered to the registered owner of the vehicle within 10 working days after the date of the incident; and

(5) Afford the person cited:

(I) The opportunity to appeal or otherwise challenge the citation by appearance before a magistrate, justice or judge, as appropriate; or

(II) The opportunity to respond by mail within 30 days after the mailing of the citation, by submitting to the court having jurisdiction over the alleged offense, a photocopy of the driver's license of the registered owner and a signed and notarized affidavit stating that the owner was not the driver of the vehicle. A court having jurisdiction over the alleged offense that receives an affidavit and photocopy pursuant to this sub-subparagraph shall dismiss the citation without requiring a court appearance by the registered

owner if it finds there is reason to believe the registered owner was not the driver of the vehicle.

(c) The information which must be included in the report that the City of North Las Vegas is required to provide to the Department of Transportation pursuant to subsection 5.

3. The City of North Las Vegas, in implementing the pilot program, shall:

(a) Coordinate with private entities to provide for a public information campaign regarding the implementation of the pilot program at least 30 days before the commencement of the pilot program; and

(b) Identify the presence of an automated enforcement system by erecting signs which clearly indicate the presence of such a system and which are visible to traffic approaching from all directions, or erect signs at all major entrances to the City of North Las Vegas including, without limitation, freeways, bridges and state highways.

4. A contract between the City of North Las Vegas and a manufacturer or supplier of an automated enforcement system must:

(a) Require the manufacturer or supplier to provide sufficient evidence of a traffic violation in a timely manner to facilitate the issuance of a citation within the period provided for in paragraph (b) of subsection 2; and

(b) Provide that the manufacturer or supplier must not receive:

(1) Any payments or compensation based on the number of citations issued; or

(2) A percentage of the revenue generated as a result of the use of the automated enforcement system.

5. The Department of Transportation shall:

(a) Establish and maintain a clearinghouse of information on matters relating to the use of automated enforcement systems;

(b) Require the City of North Las Vegas to report to the Department of Transportation, on or before October 1, 2008, and October 1, 2010, the information required to be reported by the regulations adopted pursuant to subsection 1; and

(c) On or before January 1, 2009, and January 1, 2011, submit to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature a report on the use of automated enforcement systems.

6. As used in this section:

(a) "Automated enforcement system" means a contrivance, device or mechanism, or any combination thereof, which is used to obtain evidence of a moving traffic violation without operation by a person. The term includes a red-light camera.

(b) "Red-light camera" means a camera which:

(1) Is adapted for use or placed at an intersection or crosswalk in which movement of vehicles or pedestrians, or both, is controlled by an official

traffic-control device that is operated electrically, electronically or mechanically; and

(2) Is capable of photographing or otherwise capturing images or representations of the following in a simultaneous or approximately simultaneous manner:

(I) The license plate number of a vehicle;

(II) The signal displayed by or upon the official traffic-control device as the vehicle enters or exits, or both, the intersection or crosswalk;

(III) The position of the vehicle within the intersection or crosswalk relative to the signal displayed by or upon the official traffic-control device; and

(IV) The date and time.

Sec. 13. 1. This section and sections 1, 3, 5 and 7 to 10, inclusive, *and 12.5* of this act become effective on October 1, 2007.

2. Sections 2, 11 and 12 of this act become effective on March 1, 2008.

3. Sections 3 and 5 of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

4. Sections 4 and 6 of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

5. Section 12.5 of this act expires by limitation on June 30, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee, Care, Carlton, Nolan, Coffin, Hardy and Mathews.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 558.

Bill read second time.

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

Amendment No. 950.

"SUMMARY— ~~[Authorizes]~~ *Provides that* governing bodies ~~[to reject]~~ *may not accept* certain incomplete applications relating to land use. (BDR 22-431)"

"AN ACT relating to ~~[planning and zoning; authorizing]~~ *land use planning; providing that* governing bodies ~~[to reject]~~ *may not accept* certain land use applications if the applications are incomplete; requiring governing

bodies to describe the additional information required to make such an application complete; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the governing bodies of cities and counties to regulate and restrict land use within their jurisdictions. (NRS 278.020) Section 1 of this bill ~~[authorizes]~~ *provides that* governing bodies ~~[to reject]~~ *may not accept* land use applications if the applications are incomplete. Section 1 also requires governing bodies ~~[that have rejected]~~ *, when returning incomplete* applications *,* ~~[that are incomplete]~~ to: (1) describe to the applicant the additional information required; and (2) if requested by the applicant, *provide a copy of the relevant provision of the ordinance, resolution or regulation that requires the additional information or* explain why the additional information is necessary. ~~[Section 1 of this bill clarifies that its provisions apply only with respect to the review, acceptance or rejection of land use applications for the purpose of processing, and do not affect other substantive provisions of law.]~~

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any application submitted to a governing body or its designee ~~[, which application]~~ that concerns any matter relating to land use planning pursuant to NRS 278.010 to 278.630, inclusive, or any ordinance, resolution or regulation adopted pursuant thereto, may not be ~~[rejected]~~ accepted by the governing body or its designee if the application is incomplete.

2. The governing body or its designee shall, within 3 working days after receiving an application of the type described in subsection 1:

(a) Review the application for completeness;

(b) Accept the application if the governing body or its designee finds that the application is complete or ~~[reject]~~ return the application ~~[.]~~ if the governing body or its designee finds that the application is incomplete; and

(c) If ~~[it rejects]~~ the governing body or its designee returns the application:

(1) Provide to the applicant a description of the additional information required; and

(2) If requested by the applicant, provide to the applicant a copy of the relevant provision of the ordinance, resolution or regulation which specifically requires the additional information or an explanation of why the additional information is necessary.

~~*[3. The provisions of this section:*~~

~~*(a) Apply with respect to an application of the type described in subsection 1 only for the limited purposes of:*~~

~~*(1) Determining whether the application is sufficiently complete to be processed; and*~~

~~*(2) Accepting or rejecting the application on that basis; and*~~

~~*(b) Do not alter, limit or otherwise affect the operation of any statute or regulation of this State which prescribes standards, criteria or other requirements relating to the submission, acceptance, approval or rejection of such an application.]*~~

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 592.

Bill read second time.

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

Amendment No. 772.

"SUMMARY—~~[Provides for contracting licenses for]~~ *Requires the State Contractors' Board to adopt certain regulations concerning* the abatement or removal of asbestos. (BDR 54-1200)"

"AN ACT relating to contractors; ~~[requiring the State Contractors' Board to designate a contracting classification for licenses that authorize the licensee to abate or remove asbestos;]~~ requiring the *State Contractors'* Board to establish a specific limit on the amount of asbestos that a contractor not licensed to remove asbestos may remove; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for contracting licenses to be classified as licenses for general engineering contracting, general building contracting or specialty contracting. (NRS 624.215) Existing law also authorizes the State Contractors' Board to limit the field and scope of work that may be done pursuant to a specific contracting license. (NRS 624.220) Existing law authorizes a licensed specialty contractor to perform work outside the field and scope for which the contractor is licensed if the work is incidental and supplemental to the performance of work for which the contractor is licensed. (NRS 624.220)

~~[This bill requires the Board to adopt regulations designating a specialty contracting classification for licenses that authorize the licensee to abate or remove asbestos.]~~ This bill ~~[also]~~ requires the Board to adopt regulations establishing a specific limit on the amount of asbestos that a contractor not licensed to remove asbestos may remove.

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

Section 1. NRS 624.220 is hereby amended to read as follows:

624.220 1. The Board shall adopt regulations necessary to effect the classification and subclassification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as defined by NRS 624.215 and the regulations of the Board.

2. The Board shall limit the field and scope of the operations of a licensed contractor by establishing a monetary limit on a contractor's license, and the limit must be the maximum contract a licensed contractor may undertake on one or more construction contracts on a single construction site or subdivision site for a single client. The Board may take any other action designed to limit the field and scope of the operations of a contractor as may be necessary to protect the health, safety and general welfare of the public. The limit must be determined after consideration of the factors set forth in NRS 624.260 to 624.265, inclusive.

3. A licensed contractor may request that the Board increase the monetary limit on his license, either on a permanent basis or for a single construction project. A request submitted to the Board pursuant to this subsection must be in writing on a form prescribed by the Board and accompanied by such supporting documentation as the Board may require. If a request submitted pursuant to this section is for a single construction project, the request must be submitted to the Board at least 2 working days before the date on which the licensed contractor intends to submit his bid for the project.

4. ~~[Nothing]~~ *Subject to the provisions of regulations adopted pursuant to subsection 5, nothing* contained in this section prohibits a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

5. The Board shall adopt regulations ~~[:~~

~~*(a) Designating a specialty contracting classification for licenses that authorize the licensee to abate or remove asbestos; and*~~

~~*(b) Establishing]*~~ *establishing a specific limit on the amount of asbestos that a licensed contractor with a license that is not classified* ~~[*pursuant to paragraph (a)]*~~ *for the abatement or removal of asbestos may abate or remove pursuant to subsection 4.*

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

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 600.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 851.

"SUMMARY—Revises provisions concerning the protection of certain personal identifying information. (BDR 19-774)"

"AN ACT relating to privacy; revising provisions concerning the protection of certain personal identifying information; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, documents submitted to governmental agencies must not include the social security number of a person except in certain circumstances. (NRS 239B.030) Existing law also prohibits public bodies from disclosing on their websites personal information about a person, except in certain circumstances. Personal information is defined to mean the person's name in combination with his social security number, driver's license number or certain other account numbers. (NRS 239B.050, 603A.040) Sections 2 and 3 of this bill make consistent the information that is protected from disclosure by public entities on documents submitted to the entity or on the entity's website. Section 2 also authorizes a person to request ~~[the redaction of]~~ *a governmental agency to redact or maintain in a confidential manner his* personal information ~~[from]~~ *in* documents submitted to ~~[a]~~ *the* governmental agency before January 1, 2007 ~~[.]~~ *, and prescribes the requirements for such a request.* Section 8 of this bill provides that the last 4 digits of a social security number are not personal information for the purposes of these provisions.

Section 1 of this bill provides certain immunity to officers, employees and members of a governmental agency or public body relating to the disclosure of personal information pursuant to section 2 or 3 of this bill.

Section 4 of this bill authorizes the use of the last four digits of a social security number in judgments, and sections 5 and 7 of this bill remove the requirement of the inclusion of a social security number on certificates of marriage and forms for the reporting of divorces and annulments. (NRS 122.160, 440.135) Section 6 of this bill authorizes the county recorder to allow the inspection and copying of certain records by family members, guardians and personal representatives. (NRS 247.090)

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

Section 1. Chapter 239B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An officer, employee or member of a governmental agency or public body is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in carrying out the provisions of NRS 239B.030 or 239B.050.

2. As used in this section:

(a) "Governmental agency" means an officer, board, commission, department, division, bureau, district or any other unit of government of the State or a local government.

(b) "Public body" has the meaning ascribed to it in NRS 205.462.

Sec. 2. NRS 239B.030 is hereby amended to read as follows:

239B.030 1. Except as otherwise provided in ~~[subsection]~~ *subsections* 2 ~~[,]~~ *and 6,* a person shall not include and a governmental agency shall not require a person to include ~~[the social security number of]~~ *any personal information about* a person on any document that is recorded, filed or otherwise submitted to the governmental agency on or after January 1, 2007.

2. If ~~[the social security number of]~~ *personal information about* a person is required to be included in a document that is recorded, filed or otherwise submitted to a governmental agency on or after January 1, 2007, pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant, a governmental agency shall ensure that the ~~[social security number]~~ *personal information* is maintained in a confidential manner ~~*[or obliterated or otherwise removed by any method, including, without limitation, through the use of computer software,]*~~ and may only disclose the ~~[social security number]~~ *personal information* as required:

(a) To carry out a specific state or federal law; or

(b) For the administration of a public program or an application for a federal or state grant.

➥ *Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.*

3. A governmental agency shall take necessary measures to ensure that notice of the provisions of this section is provided to persons with whom it conducts business. Such notice may include, without limitation, posting notice in a conspicuous place in each of its offices.

4. A governmental agency may require a person who records, files or otherwise submits any document to the governmental agency to provide an affirmation that the document does not contain ~~[the social security number of]~~ *personal information about* any person ~~[,]~~ *or, if the document contains any such personal information, identification of the specific law, public program or grant that requires the inclusion of the personal information.* A governmental agency may refuse to record, file or otherwise accept a document which does not contain such an affirmation when required ~~[and]~~ *or* any document which contains ~~[the social security number of]~~ *personal information about* a person ~~[,]~~ *that is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.*

5. On or before January 1, 2017, each governmental agency shall ensure that any ~~[social security number]~~ *personal information* contained in a

document that has been recorded, filed or otherwise submitted to the governmental agency before January 1, 2007, which the governmental agency continues to hold is ~~[maintained]~~ :

(a) Maintained in a confidential manner *if the personal information is required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant;* or ~~[is obliterated]~~

(b) Obliterated or otherwise removed from the document ~~[.]~~ , *by any method, including, without limitation, through the use of computer software* ~~[.]~~ , *if the personal information is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.*

➥ Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.

6. *A person may request that a governmental agency obliterate or otherwise remove from any document submitted by the person to the governmental agency before January 1, 2007, any personal information about the person contained in the document* ~~[.]~~ *that is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant or, if the personal information is so required to be included in the document, the person may request that the governmental agency maintain the personal information in a confidential manner. If any documents that have been recorded, filed or otherwise submitted to a governmental agency:*

(a) Are maintained in an electronic format that allows the governmental agency to retrieve components of personal information through the use of computer software, a request pursuant to this subsection must identify the components of personal information to be retrieved. The provisions of this paragraph do not require a governmental agency to purchase computer software to perform the service requested pursuant to this subsection.

(b) Are not maintained in an electronic format or not maintained in an electronic format in the manner described in paragraph (a), a request pursuant to this subsection must describe the document with sufficient specificity to enable the governmental agency to identify the document.

➥ *The governmental agency shall not charge any fee to perform* ~~*[such a]*~~ *the service* ~~*[.]*~~ *requested pursuant to this subsection.*

7. As used in this section ~~[, "governmental]~~ *:*

(a) "Governmental agency" means an officer, board, commission, department, division, bureau, district or any other unit of government of the State or a local government.

(b) "Personal information" has the meaning ascribed to it in NRS 603A.040.

Sec. 3. NRS 239B.050 is hereby amended to read as follows:

239B.050 1. If a public body maintains a website on the Internet, the public body shall not disclose on that website personal information unless the

disclosure is required by a federal or state ~~[statute or regulation.]~~ *law or for the administration of a public program or an application for a federal or state grant.*

2. If it appears that a public body has engaged in or is about to engage in any act or practice which violates subsection 1, the Attorney General or the appropriate district attorney may file an action in any court of competent jurisdiction for an injunction to prevent the occurrence or continuance of that act or practice.

3. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not preclude the criminal prosecution and punishment of an act or practice that may otherwise be prohibited by law.

4. As used in this section:

(a) "Personal information" has the meaning ascribed to it in NRS 603A.040.

(b) "Public body" has the meaning ascribed to it in NRS 205.462.

Sec. 4. NRS 17.150 is hereby amended to read as follows:

17.150 1. Immediately after filing a judgment roll the clerk shall make the proper entries of the judgment, under appropriate heads, in the docket kept by him, noting thereon the hour and minutes of the day of such entries.

2. A transcript of the original docket or an abstract or copy of any judgment or decree of a district court of the State of Nevada or the District Court or other court of the United States in and for the District of Nevada, the enforcement of which has not been stayed on appeal, certified by the clerk of the court where the judgment or decree was rendered, may be recorded in the office of the county recorder in any county, and when so recorded it becomes a lien upon all the real property of the judgment debtor not exempt from execution in that county, owned by him at the time, or which he may afterward acquire, until the lien expires. The lien continues for 6 years after the date the judgment or decree was docketed, and is continued each time the judgment or decree is renewed, unless:

(a) The enforcement of the judgment or decree is stayed on appeal by the execution of a sufficient undertaking as provided in the Nevada Rules of Appellate Procedure or by the Statutes of the United States, in which case the lien of the judgment or decree and any lien by virtue of an attachment that has been issued and levied in the actions ceases;

(b) The judgment is for arrearages in the payment of child support, in which case the lien continues until the judgment is satisfied;

(c) The judgment is satisfied; or

(d) The lien is otherwise discharged.

➥ The time during which the execution of the judgment is suspended by appeal, action of the court or defendant must not be counted in computing the time of expiration.

3. The abstract described in subsection 2 must contain the:

(a) Title of the court and the title and number of the action;

(b) Date of entry of the judgment or decree;

(c) Names of the judgment debtor and judgment creditor;

(d) Amount of the judgment or decree; and

(e) Location where the judgment or decree is entered in the minutes or judgment docket.

4. A judgment creditor who records a judgment or decree shall record at that time an affidavit stating:

(a) The name and address of the judgment debtor;

(b) The judgment debtor's driver's license number and state of issuance or the *last four digits of the* judgment debtor's social security number; and

(c) The judgment debtor's date of birth,

➥ if known to the judgment creditor. If any of the information is not known, the affidavit must include a statement of that fact.

Sec. 5. NRS 122.160 is hereby amended to read as follows:

122.160 1. Marriages between Indians performed in accordance with tribal customs within closed Indian reservations and Indian colonies have the same validity as marriages performed in any other manner provided for by the laws of this State, if there is recorded in the county in which the marriage takes place, within 30 days after the performance of the tribal marriage, a certificate declaring the marriage to have been performed.

2. The certificate of declaration required to be recorded by subsection 1 must include the names of the persons married, their ages, ~~[social security numbers,]~~ tribe, and place and date of marriage. The certificate must be signed by an official of the tribe, reservation or colony.

3. The certificate must be recorded with the recorder of the county in which the marriage was performed and recorded by him without charge.

Sec. 6. NRS 247.090 is hereby amended to read as follows:

247.090 ~~[All]~~

1. Except as otherwise provided in subsection 2 and NRS 239B.030, all documents on file in the office of the county recorder, must, during office hours, be open for inspection by any person without charge. The county recorder must arrange the books of record and indexes in his office in such suitable places as to facilitate their inspection.

2. A county recorder may allow inspection and copying of records containing personal information about a deceased or incapacitated person by a spouse, widow or widower, parent, sibling, child, guardian or personal representative of the person. As used in this subsection, "personal information" has the meaning ascribed to in NRS 603A.040.

Sec. 7. NRS 440.135 is hereby amended to read as follows:

440.135 1. The Board shall prescribe, and the State Registrar shall furnish in sufficient numbers to each county clerk for distribution, a form for the reporting of divorces and annulments of marriage.

2. The information required by such form must be limited to:

(a) The names ~~[and social security numbers]~~ of the parties;

(b) The court and county in which the decree is granted; and

(c) The date of the decree.

Sec. 8. NRS 603A.040 is hereby amended to read as follows:

603A.040 "Personal information" means a natural person's first name or first initial and last name in combination with any one or more of the following data elements, when the name and data elements are not encrypted:

1. Social security number.

2. Driver's license number or identification card number.

3. Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person's financial account.

➥ The term does not include *the last four digits of a social security number or* publicly available information that is lawfully made available to the general public.

Sec. 9. 1. This section, section 1 and sections 3 to 8, inclusive, of this act become effective upon passage and approval.

2. Section 2 of this act becomes effective on January 1, 2008.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

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

Thank you, Mr. President. The amendment allows for a redaction of personal information of a document submitted to a government agency. Additionally, it provides that the government agency may request personal information for the purposes of conducting a search to redact that personal information. Lastly, the amendment clarifies that the document submitted to a governmental entity may contain personal information if required by other specific state or federal law.

There was a discussion in the committee with regards as to whether or not this was going to intentionally, or not intentionally, hamstring law enforcement's ability to use personal information in the course of an investigation. Neither in the Assembly discussions of this nor in the Senate's committee discussions was that the intention. No part of this bill is intended to or should prevent law enforcement agencies from using that type of information in a legal way during an investigation.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 154.

The following Assembly amendment was read:

Amendment No. 719.

"SUMMARY— ~~[Clarifies]~~ *Contingently allows the imposition of certain taxes in certain counties to fund capital projects for the county school district and clarifies* certain provisions governing taxes on transfers of real property. (BDR 32-712)"

"AN ACT relating to taxation; *contingently allowing the imposition in certain counties of a tax on transfers of real property and a tax on revenue from the rental of transient lodging to fund capital projects for the county*

school district; clarifying the applicability of an exemption from the taxes on transfers of real property for transfers relating to changes in identity, form or place of organization; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the imposition of taxes on transfers of real property. (NRS 375.020, 375.023, 375.026) *Section 1 of this bill provides for the imposition of such a tax in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) at the rate of 60 cents for each $500 of value of the transferred property, upon the request of the board of trustees of the county school district, for deposit in the county school district's fund for capital projects, and requires the use of at least 80 percent of the proceeds of the tax for enlarging, remodeling or repairing existing buildings or grounds for schools.*

Existing law ~~[also]~~ provides that certain transfers are exempt from ~~[such taxes.]~~ *taxes on transfers of real property.* (NRS 375.090) ~~[This]~~ *Section 3 of this* bill revises an exemption for transfers relating to a change in identity, form or place of organization to clarify that the exemption applies to the reorganization of any business entity.

Existing law provides for the imposition of taxes on the rental of transient lodging. (NRS 244.3351, 244.3352) Section 5 of this bill provides for the imposition of such a tax in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) at the rate of one and five-eighths percent of the gross receipts from such rentals, upon the request of the board of trustees of the county school district, for deposit in the county school district's fund for capital projects, and requires the use of at least 80 percent of the proceeds of the tax for enlarging, remodeling or repairing existing buildings or grounds for schools.

The provisions of this bill that provide for the imposition of additional taxes will become effective on January 1, 2009, only if the voters of the affected counties approve of the imposition of those taxes at the 2008 General Election.

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

Section 1. Chapter 375 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a county school district in a county whose population is 100,000 or more but less than 400,000 may adopt and transmit to the board of county commissioners of that county a resolution requesting the board of county commissioners to impose a tax, in addition to all other taxes imposed on transfers of real property other than another tax imposed in the county pursuant to this section, at the rate of 60 cents for each $500 of value or fraction thereof, on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, if the consideration or value of the interest or property conveyed exceeds $100. Upon the receipt of a resolution adopted

pursuant to this subsection, the board of county commissioners shall impose the requested tax.

2. The amount of any tax imposed pursuant to this section must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.

3. The county recorder shall collect any tax imposed pursuant to this section in the manner provided in NRS 375.030, except that he shall transmit all the proceeds of the tax imposed pursuant to this section and any applicable penalties and interest thereon to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund, except that not less than 80 percent of those proceeds must be used for the purposes described in paragraph (b) of subsection 1 of NRS 387.335.

4. The proceeds of any tax imposed pursuant to this section must not be:

(a) Considered in any negotiations between a recognized organization of employees of a school district and the school district; or

(b) Used to reduce or supplant the amount of any money which would otherwise be made available for the purposes described in subsection 1 of NRS 387.335.

Sec. 2. NRS 375.030 is hereby amended to read as follows:

375.030 1. If any deed evidencing a transfer of title subject to the tax imposed by NRS 375.020 and 375.023 and, if applicable, NRS 375.026 *and section 1 of this act* is offered for recordation, the county recorder shall compute the amount of the tax due and shall collect that amount before acceptance of the deed for recordation.

2. The buyer and seller are jointly and severally liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 *and section 1 of this act* and any penalties and interest imposed pursuant to subsection 3. The escrow holder is not liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 *and section 1 of this act* or any penalties or interest imposed pursuant to subsection 3.

3. If after recordation of the deed, the county recorder disallows an exemption that was claimed at the time the deed was recorded or through audit or otherwise determines that an additional amount of tax is due, the county recorder shall promptly notify the person who requested the recording of the deed and the buyer and seller of the additional amount of tax due. If the additional amount of tax is not paid within 30 days after the date the buyer and seller are notified, the county recorder shall impose a penalty of 10 percent of the additional amount due in addition to interest at the rate of 1 percent per month, or portion thereof, of the additional amount due calculated from the date of the original recordation of the deed on which the additional amount is due through the date on which the additional amount due, penalty and interest are paid to the county recorder.

4. This section does not prohibit a buyer and seller from agreeing by contract or otherwise that one party or the other will be responsible for the payment of the tax due pursuant to this chapter, but such an agreement does not affect the ability of the county recorder to collect the tax and any penalties and interest from either the buyer or the seller.

~~[Section 1.]~~ *Sec. 3.* NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a ~~[corporation]~~ *business entity* and its parent ~~[corporation, a]~~ *, its* subsidiary or an affiliated ~~[corporation]~~ *business entity* if the affiliated ~~[corporation]~~ *business entity* has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

➥ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 4. *NRS 375.090 is hereby amended to read as follows:*

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 *and section 1 of this act* do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

➥ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 5. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a county school district in a county whose population is 100,000 or more but less than 400,000 may adopt and transmit to the board of county commissioners of that county a resolution requesting the board of county commissioners to impose a tax, in addition to all other taxes imposed on the revenue from the rental of transient lodging other than another tax imposed in the county pursuant to this section, at the rate of one and five-eighths percent of the gross receipts from the rental of transient lodging. Upon the receipt of a resolution adopted pursuant to this subsection, the board of county commissioners shall adopt an ordinance imposing the requested tax throughout the county, including its incorporated cities, upon all persons in the business of providing lodging.

2. An ordinance imposing a tax pursuant to this section must include all the matters required by NRS 244.3352 for the mandatory tax, must be administered in the same manner, and imposes the same liabilities, except that:

(a) The collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after the adoption of the ordinance imposing the tax; and

(b) The governmental entity collecting the tax shall transfer all collections to the county treasurer and may not retain any part of the tax as a collection or administrative fee.

3. The proceeds of any tax imposed pursuant to this section and any applicable penalties and interest thereon must be deposited in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund, except that not less than 80 percent of those proceeds must be used for the purposes described in paragraph (b) of subsection 1 of NRS 387.335.

4. The proceeds of any tax imposed pursuant to this section must not be:

(a) Considered in any negotiations between a recognized organization of employees of a school district and the school district; or

(b) Used to reduce or supplant the amount of any money which would otherwise be made available for the purposes described in subsection 1 of NRS 387.335.

Sec. 6. NRS 244.3359 is hereby amended to read as follows:

244.3359 1. A county whose population is 400,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.3351 and 244.3352.

2. A county whose population is 100,000 or more but less than 400,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991 ~~[.]~~ *, except pursuant to section 5 of this act.*

3. The Legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended *after January 1, 2009,* except to allow the imposition of an increase in such a tax for the promotion of tourism or for the construction or operation of tourism facilities by a convention and visitors authority.

Sec. 7. NRS 387.328 is hereby amended to read as follows:

387.328 1. The board of trustees of each school district shall establish a fund for capital projects for the purposes set forth in subsection 1 of NRS 387.335. The money in the fund for capital projects may be transferred to the debt service fund to pay the cost of the school district's debt service.

2. The board of trustees may accumulate money in the fund for capital projects for a period not to exceed 20 years.

3. That portion of the governmental services tax whose allocation to the school district pursuant to NRS 482.181 is based on the amount of the property tax levy attributable to its debt service must be deposited in the county treasury to the credit of the fund established under subsection 1 or the school district's debt service fund.

4. No money in the fund for capital projects at the end of the fiscal year may revert to the county school district fund, nor may the money be a surplus for any other purpose than those specified in subsection 1.

5. ~~[The]~~ *Subject to the limitations set forth in sections 1 and 5 of this act, the* proceeds of the taxes deposited in the fund for capital projects pursuant to NRS 244.3354, 268.0962 and 375.070 *and sections 1 and 5 of this act* may be pledged to the payment of the principal and interest on bonds or other obligations issued for one or more of the purposes set forth in NRS 387.335. The proceeds of such taxes so pledged may be treated as pledged revenues for the purposes of subsection 3 of NRS 350.020, and the board of trustees of a school district may issue bonds for those purposes in accordance with the provisions of chapter 350 of NRS.

Sec. 8. *NRS 388.750 is hereby amended to read as follows:*

388.750 1. An educational foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010; and

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 *and section 1 of this act* pursuant to subsection 13 of NRS 375.090.

2. An educational foundation is not required to disclose the names of the contributors to the foundation or the amount of their contributions. The educational foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "educational foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated exclusively for the purpose of supporting one or more kindergartens, elementary schools, junior high or middle schools or high schools, or any combination thereof;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 9. *NRS 396.405 is hereby amended to read as follows:*

396.405 1. A university foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 *and section 1 of this act* pursuant to subsection 14 of NRS 375.090; and

(d) May allow a president or an administrator of the university, state college or community college which it supports to serve as a member of its governing body.

2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his contribution or any information which may reveal or lead to the

discovery of his identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated exclusively for the purpose of supporting a university, state college or a community college;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 10. *At the general election on November 4, 2008, in each county whose population is 100,000 or more but less than 400,000, a question must be placed on the general election ballot in substantially the following form:*

Shall:

1. The tax on transfers of real property in this county be increased by 60 cents for each $500 of the value of the transferred property; and

2. The tax on the revenue from the rental of transient lodging in this county be increased by one and five-eighths percent of the gross receipts from such rentals,

➥ to fund capital projects for the county school district?

~~[Sec. 2.]~~ *Sec. 11.* *1.* This *section and sections 3 and 10 of this* act ~~[becomes]~~ *become* effective on July 1, 2007.

2. Sections 1, 2 and 4 to 9, inclusive, of this act become effective on January 1, 2009, only if a majority of the voters voting on the question placed on the ballot pursuant to section 10 of this act vote affirmatively on the question in all the counties in which the question was placed on the ballot.

Senator McGinness moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 154.

Remarks by Senator McGinness.

Motion carried.

Bill ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 571—AN ACT making a contingent appropriation to the Interim Finance Committee for a portion of the costs of constructing a courthouse in White Pine County; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 572—AN ACT relating to state financial administration; extending the reversion date of a transfer of room tax proceeds required in

the previous legislative session for the restoration and preservation of the exterior of the Lear Theater; and providing other matters properly relating thereto.

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

Motion carried.

By Senators Raggio, Titus; Assemblymen Buckley, Mabey and Oceguera:

Senate Bill No. 573—AN ACT relating to elections; requiring rooms or space in public buildings to be provided without charge for certain purposes; revising provisions governing the scheduling of precinct meetings in relation to the county and state conventions of major political parties; and providing other matters properly relating thereto.

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

Motion carried.

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Legislative Counsel.

For: Senate Bill No. 573.

To Waive:

Subsections 1 and 2 of Joint Standing Rule No. 14 and Joint Standing Rule Nos. 14.2 and 14.3.

Has been granted effective: Friday, May 18, 2007.

WILLIAM J. RAGGIO	BARBARA BUCKLEY
Senate Majority Leader	*Speaker of the Assembly*

SECOND READING AND AMENDMENT

Assembly Bill No. 50.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 759.

"SUMMARY—~~[Amends the exceptions authorizing the release of the home address of a peace officer by a law enforcement agency in certain circumstances.]~~ *Makes various changes to provisions relating to peace officers.* (BDR 23-146)"

"AN ACT relating to peace officers; *requiring law enforcement agencies to adopt policies and procedures that provide for the acceptance of service of any legal process on behalf of peace officers;* amending the exceptions that authorize the release of the home address of a peace officer by a law enforcement agency in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ *Section 1 of this bill requires law enforcement agencies to adopt policies and procedures that provide for the acceptance of service of any legal process on behalf of peace officers.*

Existing law provides that the home address of a peace officer is not public information and is confidential unless the peace officer authorizes the release of the address or has been arrested. (NRS 289.025) Section 2 of this bill authorizes the release of the home address of a peace officer to the public *only* if the officer has been arrested and the home address is included in a report of a 911 telephone call, a police report, a witness statement or certain reports relating to the custody of a child. (NRS 289.025)

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

Section 1. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each law enforcement agency shall adopt policies and procedures that provide for the acceptance of service of any legal process that is served on a peace officer employed by the law enforcement agency.

2. The policies and procedures required by subsection 1 must include, without limitation:

(a) At least one centralized location at which service of legal process will be accepted on behalf of peace officers.

(b) At least a 4-hour consecutive period on each workday when service of legal process will be accepted at any location specified pursuant to paragraph (a).

3. Each law enforcement agency shall:

(a) Post a copy of the policies and procedures adopted pursuant to subsection 1 in a conspicuous place at each location described in paragraph (a) of subsection 2; and

(b) Upon request, provide a copy of the policies and procedures adopted pursuant to subsection 1 to any member of the public.

4. Any legal process to be served upon a peace officer may be served in the manner provided by the policies and procedures adopted pursuant to subsection 1.

5. This section provides an additional manner of serving legal process, and does not affect the validity of any other valid service.

6. As used in this section, "legal process" means a subpoena, any civil or criminal process or any demand or notice authorized by law to be served upon a person.

~~[Section 1.]~~ *Sec. 2.* NRS 289.025 is hereby amended to read as follows:

289.025 1. Except as otherwise provided in ~~[subsection 2,]~~ *subsections 2 and 3,* the home address and any photograph of a peace officer in the possession of a law enforcement agency are not public information and are confidential.

2. The ~~[home address and]~~ photograph of a peace officer may be released:

(a) If the peace officer authorizes the release; or

(b) If the peace officer has been arrested.

3. The home address of a peace officer may be released if a peace officer has been arrested and the home address is included in any of the following:

(a) A report of a 911 telephone call.

(b) A police report, investigative report or complaint which a person filed with a law enforcement agency.

(c) A statement made by a witness.

(d) A report prepared pursuant to NRS 432B.540 by an agency which provides child welfare services, which report details a plan for the placement of a child.

Sec. 3. *NRS 174.345 is hereby amended to read as follows:*

174.345 1. Except as otherwise provided in NRS 174.315 and subsection 2, a subpoena may be served by a peace officer or by any other person who is not a party and who is not less than 18 years of age. ~~[Service]~~ *Except as otherwise provided in section 1 of this act, service* of a subpoena must be made by delivering a copy thereof to the person named.

2. Except as otherwise provided in NRS 174.315, a subpoena to attend a misdemeanor trial may be served by mailing the subpoena to the person to be served by registered or certified mail, return receipt requested from that person, in a sealed postpaid envelope, addressed to the person's last known address, not less than 10 days before the trial which the subpoena commands him to attend.

3. If a subpoena is served by mail, a certificate of the mailing must be filed with the court within 2 days after the subpoena is mailed.

~~[Sec. 2.]~~ *Sec. 4.* This act becomes effective upon passage and approval.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 80.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 801.

"SUMMARY—Requires certain business entities that engage in certain political activities to register with the Secretary of State. (BDR 24-170)"

"AN ACT relating to elections; requiring certain business entities to register with and provide certain identifying information to the Secretary of State before engaging in certain political activities; requiring the Secretary of State to make such information available on his Internet website; requiring certain business entities that make expenditures on behalf of a candidate or group of candidates or who advocate the passage or defeat of a question or group of questions on a ballot to file certain campaign finance reports;

providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain entities, including committees for political action and nonprofit corporations, must register with and provide certain information to the Secretary of State before engaging in certain political activities. (NRS 294A.0055, 294A.230, 294A.375) Under existing law, the definition of the term "committee for political action" excludes business associations that are required to file documentation of organization with the Secretary of State. (NRS 294A.0055) Sections 2 and 3 of this bill provide that business entities ~~[for which the owners, investors, officers, directors, members or other organizers are disclosed in a public record]~~ must register with and provide to the Secretary of State certain identifying information before the business entity may solicit or receive contributions, make contributions or make expenditures designed to affect the outcome of an election ~~[.]~~ *except a business entity for which: (1) the owners, investors, officers, directors, members or other organizers are disclosed in a public record; or (2) the business purpose is disclosed in a public record that clearly identifies a specific business in a manner that is verifiable.* Section 3 also requires the Secretary of State to make such information available on the Internet website of the Secretary of State.

Under existing law, certain persons and entities which make an expenditure on behalf of a candidate or group of candidates, advocate the passage or defeat of a ballot question or group of questions, or initiate or circulate a petition for a constitutional amendment or a statewide measure proposed by initiative or referendum, are required to report the receipt of certain campaign contributions and report certain campaign expenditures. (NRS 294A.004, 294A.005, 294A.007, 294A.140, 294A.150, 294A.210, 294A.220) Sections 5-9 of this bill apply the same requirements to business entities that are required to register with the Secretary of State pursuant to section 3 of this bill that engage in such activities.

Existing law requires the Secretary of State to prepare and make available for public inspection a compilation of certain contributions, loans and expenditures made by certain persons and entities in supporting or opposing a ballot question or candidate. (NRS 294A.400) Section 13 of this bill requires the Secretary of State to include within that compilation the same types of contributions, loans and expenditures if made by a business entity that is required to register with the Secretary of State pursuant to section 3 of this bill.

Existing law provides that if a person or entity fails to file a report or registration form as required pursuant to certain sections of chapter 294A of NRS, the person or entity may be subject to a civil penalty recovered in a civil action brought by the Secretary of State in the First Judicial District Court. (NRS 294A.420) Section 14 of this bill applies the same provisions to

business entities that are required to register with the Secretary of State pursuant to section 3 of this bill.

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

Section 1. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Business entity" means any corporation, company or other form of business organization* . *The term does not include a business entity for which* ~~*[the]*~~ :

1. *The owners, investors, officers, directors, members or other organizers of the entity are* ~~*[not]*~~ *disclosed in any public record* ~~*[.]*~~ ; *or*

2. *The business purpose of the entity is disclosed in a public record that clearly identifies a specific business in a manner that is verifiable.*

Sec. 3. *1. A business entity shall register with the Secretary of State by submitting the completed form described in subsection 2 before it engages in any of the following activities in this State:*

(a) Soliciting or receiving contributions from any other person, group or entity;

(b) Making contributions to candidates or other persons; or

(c) Making expenditures,

➥ *designed to affect the outcome of any primary election, primary city election, general election, general city election, special election or question on the ballot.*

2. The form must require:

(a) The name of the business entity;

(b) The purpose for which it was organized;

(c) The names and addresses of each owner, investor, officer, director, member or other organizer of the entity;

(d) If the business entity is affiliated with any other organization, the name, address and telephone number of each such organization;

(e) The name, address and telephone number of its resident agent, if any;

(f) A designation of the activities listed in subsection 1 in which it intends to engage; and

(g) Any other information deemed necessary by the Secretary of State.

3. The Secretary of State shall, in a timely manner, include on the portion of his Internet website that is devoted to information concerning elections and campaigns the information required pursuant to subsection 2.

Sec. 4. NRS 294A.002 is hereby amended to read as follows:

294A.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 294A.004 to 294A.009, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 4.5. NRS 294A.0055 is hereby amended to read as follows:

294A.0055 1. "Committee for political action" means any group of natural persons or entities that solicits or receives contributions from any other person, group or entity and:

(a) Makes or intends to make contributions to candidates or other persons; or

(b) Makes or intends to make expenditures,

➥ designed to affect the outcome of any primary, general or special election or question on the ballot.

2. "Committee for political action" does not include:

(a) An organization made up of legislative members of a political party whose primary purpose is to provide support for their political efforts.

(b) An entity solely because it provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public.

(c) An individual natural person.

(d) An individual corporation or other business ~~[entity]~~ *organization* who has filed articles of incorporation or other documentation of organization with the Secretary of State pursuant to title 7 of NRS.

(e) A labor union.

(f) A personal campaign committee or the personal representative of a candidate who receives contributions or makes expenditures that are reported as campaign contributions or expenditures by the candidate.

(g) A committee for the recall of a public officer.

Sec. 5. NRS 294A.007 is hereby amended to read as follows:

294A.007 1. "Contribution" means a gift, loan, conveyance, deposit, payment, transfer or distribution of money or of anything of value other than the services of a volunteer, and includes:

(a) The payment by any person, other than a candidate, of compensation for the personal services of another person which are rendered to a:

(1) Candidate;

(2) Person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group;

(3) Committee for political action, political party , ~~[or]~~ committee sponsored by a political party *or business entity* which makes an expenditure on behalf of a candidate or group of candidates; or

(4) Person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of a question or group of questions on the ballot,

➥ without charge to the candidate, person, committee or political party.

(b) The value of services provided in kind for which money would have otherwise been paid, such as paid polling and resulting data, paid direct mail, paid solicitation by telephone, any paid paraphernalia that was printed or otherwise produced to promote a campaign and the use of paid personnel to assist in a campaign.

2. As used in this section, "volunteer" means a person who does not receive compensation of any kind, directly or indirectly, for the services he provides to a campaign.

Sec. 6. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party , ~~[and]~~ committee sponsored by a political party *and business entity* which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee , ~~[or]~~ political party ~~[,]~~ *or business entity*, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 he or it received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The provisions of this subsection apply to the person, committee , ~~[or]~~ political party *or business entity* beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election for that office, for the period from 11 days before the general election or general city election through June 30 of that year,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373.

The form must be signed by the person or a representative of the committee , ~~[or]~~ political party *or business entity* under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of $100 since the beginning of the current reporting period.

4. Every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee , ~~[or]~~ political party *or business entity* under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee , ~~[or]~~ political party *or business entity* under penalty of perjury.

6. Every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee , ~~[or]~~ political party *or business entity* under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports of contributions required pursuant to this section must be filed with:

(a) If the candidate is elected from one county, the county clerk of that county;

(b) If the candidate is elected from one city, the city clerk of that city; or

(c) If the candidate is elected from more than one county or city, the Secretary of State.

8. A person or entity may file the report with the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

10. Every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 7. NRS 294A.150 is hereby amended to read as follows:

294A.150 1. Every person or group of persons organized formally or informally *, including a business entity,* who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and every person or group of persons *, including a business entity,* who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who

receives or expends money in an amount in excess of $10,000 to support such initiation or circulation shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 received during that period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group *or business entity* under penalty of perjury. The provisions of this subsection apply to the person or group of persons ~~[:]~~ *or business entity:*

(a) Each year in which an election or city election is held for each question for which the person , ~~[or]~~ group *or business entity* advocates passage or defeat or each year in which a person , ~~[or]~~ group *or business entity* receives or expends money in excess of $10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum; and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person , ~~[or]~~ group of persons *or business entity* described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through June 30 of that year,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group *or business entity* under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. Every person , ~~[or]~~ group of persons *or business entity* who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation shall comply with the requirements of this subsection. A person , ~~[or]~~ group of persons *or business entity* described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group *or business entity* under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group *or business entity* under penalty of perjury.

6. Every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group *or business entity* under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. If the person or group of persons , *including a business entity,* is advocating passage or defeat of a group of questions or is receiving or expending money to support a group of petitions for constitutional

amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum, the reports must be itemized by question or petition.

10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

Sec. 8. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party , ~~[or]~~ committee sponsored by a political party *or business entity* which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee , ~~[or]~~ political party ~~[,]~~ *or business entity*, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee , ~~[or]~~ political party *or business entity* under penalty of perjury. The provisions of this subsection apply to the person, committee , ~~[or]~~ political party *or business entity* beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election for that office, for the period from 11 days before the general election or general city election through the June 30 of that year,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee , ~~[or]~~ political party *or business entity* under penalty of perjury.

3. Every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee , ~~[or]~~ political party *or business entity* under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of

the committee , ~~[or]~~ political party *or business entity* under penalty of perjury.

5. Every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee , ~~[or]~~ political party *or business entity* under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports must be filed with:

(a) If the candidate is elected from one county, the county clerk of that county;

(b) If the candidate is elected from one city, the city clerk of that city; or

(c) If the candidate is elected from more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

10. Every person, committee , ~~[or]~~ political party *or business entity* described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 9. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. Every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat

of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election and every person or group of persons , *including a business entity,* who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group *or business entity* under penalty of perjury. The provisions of this subsection apply to the person or group of persons ~~[:]~~ *or business entity:*

(a) Each year in which an election or city election is held for a question for which the person , ~~[or]~~ group *or business entity* advocates passage or defeat or each year in which a person , ~~[or]~~ group of persons *or business entity* receives or expends money in excess of $10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum; and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person , ~~[or]~~ group of persons *or business entity* described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through the June 30 immediately preceding that July 15,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group *or business entity* under penalty of perjury.

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. Every person , ~~[or]~~ group of persons *or business entity* who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of $10,000 to support such initiation or circulation shall comply with the requirements of this subsection. A person , ~~[or]~~ group of persons *or business entity* described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group *or business entity* under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group *or business entity* under penalty of perjury.

5. Every person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group *or business entity* under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of questions or a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by

initiative or referendum, the reports must be itemized by question or petition. A person may mail or transmit his report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

Sec. 10. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party , ~~[and]~~ group *and business entity* that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party , ~~[or]~~ group *or business entity* that is required to use the form.

Sec. 11. NRS 294A.382 is hereby amended to read as follows:

294A.382 The Secretary of State shall not request or require a candidate, person, group of persons, committee , ~~[or]~~ political party *or business entity* to list each of the expenditures or campaign expenses of $100 or less on a form designed and provided pursuant to NRS 294A.373.

Sec. 12. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy;

3. The registration of a committee for political action pursuant to NRS 294A.230 , ~~[or]~~ a committee for the recall of a public officer pursuant to NRS 294A.250 ~~[.]~~ *or a business entity that wishes to engage in certain political activity pursuant to section 3 of this act;* or

4. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360,

➥ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420 must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 13. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of $100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of $100.

4. The expenditures exceeding $100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) Person , ~~[or]~~ group of persons *or business entity* on behalf of or against a question or group of questions on the ballot.

(c) Group of persons *or business entity* advocating the election or defeat of a candidate.

(d) Committee for the recall of a public officer.

5. The contributions in excess of $100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A person or group of persons organized formally or informally , *including a business entity,* who advocates the passage or defeat of a question or group of questions on the ballot.

(c) A committee for political action, political party , ~~[or]~~ committee sponsored by a political party *or business entity* which makes an expenditure on behalf of a candidate or group of candidates.

Sec. 14. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270,

294A.280 or 294A.360 *or section 3 of this act* has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 *or section 3 of this act* is subject to a civil penalty of not more than $5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, $25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.

(c) If the report is more than 15 days late, $100 for each day the report is late.

➥ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 92.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 790.

"SUMMARY—Revises provisions governing genetic marker testing of certain convicted persons. (BDR 14-805)"

"AN ACT relating to criminal procedure; expanding the crimes for which a convicted person is required to submit a biological specimen to be used for genetic marker analysis; *prohibiting the sharing or disclosure of biological specimens and certain information except under certain circumstances; providing penalties;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ *Section 1 of this* bill expands the crimes for which a convicted person is required to submit to the Central Repository for Nevada Records of Criminal History a biological specimen to be used for analysis to determine the genetic markers of the specimen to include any felony, rather than certain felonies. (NRS 176.0913) *Sections 1 and 2 of this bill prohibit the sharing or disclosure of biological specimens and certain information except under certain circumstances. (NRS 176.0913, 176.0916).*

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

Section 1. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4, the court, at sentencing, shall order that:

(a) The name, social security number, date of birth and any other information identifying the defendant be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) A biological specimen be obtained from the defendant pursuant to the provisions of this section and that the specimen be used for an analysis to determine the genetic markers of the specimen.

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. If the defendant is not committed to the custody of the Department of Corrections, the Division shall arrange for the biological specimen to be obtained from the defendant. The Division shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917. Any cost that is incurred to obtain a biological specimen from a defendant pursuant to this subsection is a charge against the county in which the defendant was convicted and must be paid as provided in NRS 176.0915.

4. Except as otherwise provided in subsection 5, the provisions of subsection 1 apply to a defendant who is convicted of:

(a) A ~~[category A]~~ felony;

(b) ~~[A category B felony;~~

~~(c) A category C felony involving the use or threatened use of force or violence against the victim;~~

~~(d)]~~ A crime against a child as defined in NRS 179D.210;

~~[(e)]~~ *(c)* A sexual offense as defined in NRS 179D.410;

~~[(f)]~~ *(d)* Abuse or neglect of an older person or a vulnerable person pursuant to NRS 200.5099;

~~[(g)]~~ *(e)* A second or subsequent offense for stalking pursuant to NRS 200.575;

~~[(h)]~~ *(f)* An attempt or conspiracy to commit an offense listed in paragraphs (a) to ~~[(g), inclusive;~~

~~(i)]~~ *(e), inclusive;*

(g) Failing to register with a local law enforcement agency as a convicted person as required pursuant to NRS 179C.100, if the defendant previously was:

(1) Convicted in this State of committing an offense listed in paragraph (a), ~~[(b), (c), (f), (g) or (h);]~~ *(d), (e) or (f);* or

(2) Convicted in another jurisdiction of committing an offense that would constitute an offense listed in paragraph (a), ~~[(b), (c), (f), (g) or (h)]~~ *(d), (e) or (f)* if committed in this State;

~~[(j)]~~ *(h)* Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS 179D.240; or

~~[(k)]~~ *(i)* Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. A court shall not order a biological specimen to be obtained from a defendant who has previously submitted such a specimen for conviction of a prior offense unless the court determines that an additional sample is necessary.

6. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

7. A person who violates any provision of subsection 6 is guilty of a misdemeanor.

Sec. 2. NRS 176.0916 is hereby amended to read as follows:

176.0916 1. If the Division is supervising a probationer or parolee pursuant to an interstate compact and the probationer or parolee is or has

been convicted in another jurisdiction of violating a law that prohibits the same or similar conduct as an offense listed in subsection 4 of NRS 176.0913, the Division shall arrange for a biological specimen to be obtained from the probationer or parolee.

2. After a biological specimen is obtained from a probationer or parolee pursuant to this section, the Division shall:

(a) Provide the biological specimen to the forensic laboratory that has been designated by the county in which the probationer or parolee is residing to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917; and

(b) Submit the name, social security number, date of birth and any other information identifying the probationer or parolee to the Central Repository for Nevada Records of Criminal History.

3. *Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:*

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

4. A person who violates any provision of subsection 3 is guilty of a misdemeanor.

5. A probationer or parolee, to the extent of his financial ability, shall pay the sum of $150 to the Division as a fee for obtaining the biological specimen and for conducting the analysis to determine the genetic markers of the biological specimen. Except as otherwise provided in subsection ~~[4,]~~ *6,* the fee required pursuant to this subsection must be collected from a probationer or parolee at the time the biological specimen is obtained from the probationer or parolee.

~~[4.]~~ *6.* A probationer or parolee may arrange to make monthly payments of the fee required pursuant to subsection ~~[3.]~~ *5.* If such arrangements are made, the Division shall provide a probationer or parolee with a monthly statement that specifies the date on which the next payment is due.

~~[5.]~~ *7.* Any unpaid balance for a fee required pursuant to subsection ~~[3]~~ *5* is a charge against the Division.

~~[6.]~~ *8.* The Division shall deposit money that is collected pursuant to this section in the Fund for Genetic Marker Testing, which is hereby created in the State General Fund. The money deposited in the Fund for Genetic Marker Testing must be used to pay for the actual amount charged to the Division for obtaining biological specimens from probationers and parolees, and for conducting an analysis to determine the genetic markers of the specimens.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 142.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 800.

"SUMMARY—Makes various changes concerning ethics in government. (BDR 23-169)"

"AN ACT relating to ethics in government; requiring certain public officers ~~[and lobbyists]~~ to attend a course on *laws relating to* ethics in government; ~~[requiring lobbyists who lobby the Executive Department of the State Government to file a registration statement and periodic reports with the Secretary of State; requiring the Secretary of State to handle all reports and filings and make investigations under certain circumstances; providing a penalty;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires newly elected or appointed public officers who are required to file statements of financial disclosure ~~[, newly registered lobbyists, and newly employed lobbyists for governmental agencies]~~ to take a course on *laws relating to* governmental ethics that is conducted by the Commission on Ethics.

~~[Section 3.7 of this bill increases penalties for willful violations of certain provisions concerning ethics in government. (NRS 281.551)~~

~~Existing law sets forth requirements for persons who lobby the Legislature. The lobbyists must register with the Director of the Legislative Counsel Bureau and file certain disclosure reports. (NRS 218.900-218.944) In addition to those reports, section 5 of this bill requires legislative lobbyists to file disclosure reports at the end of each calendar quarter in which the Legislature is not in session.~~

~~Sections 8-31 of this bill set forth requirements for persons who lobby the Executive Department of the State Government. Such executive lobbyists must register with the Secretary of State and file certain disclosure reports. The requirements for executive lobbyists parallel those for legislative lobbyists in chapter 218 of NRS.]~~ *Section 1 of this bill also authorizes the Commission to develop a course on governmental ethics for the public.*

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission shall develop a course on laws relating to ethics in government. Each ~~[:~~

~~*1. Public]*~~ *public officer who is required to file a statement of financial disclosure pursuant to NRS 281.541, 281.559 or 281.561 shall* ~~*[,]*~~ *complete such a course within 6 months after his initial election or appointment to his office*~~*. [,*~~

~~*2. Lobbyist who has filed a registration statement pursuant to NRS 218.918 or section 17 of this act shall, within 30 days after filing the registration statement; and*~~

~~*3. Public employee whose primary function is to lobby other governmental entities on behalf of his employer shall, within 30 days after his initial employment in such a position,*~~

~~*➥ complete a course on ethics in government that is developed by the Commission.]*~~

2. The Commission may:

(a) Develop and offer to members of the public a course on ethics in government; and

(b) Establish and collect a fee for a member of the public to attend the course described in paragraph (a).

Sec. 2. NRS 281.411 is hereby amended to read as follows:

281.411 NRS 281.411 to 281.581, inclusive, *and section 1 of this act* may be cited as the Nevada Ethics in Government Law.

Sec. 3. NRS 281.431 is hereby amended to read as follows:

281.431 As used in NRS 281.411 to 281.581, inclusive, *and section 1 of this act,* unless the context otherwise requires, the words and terms defined in NRS 281.432 to 281.4375, inclusive, have the meanings ascribed to them in those sections.

Sec. 3.3. ~~[NRS 281.501 is hereby amended to read as follows:~~

~~281.501 1. Except as otherwise provided in subsection 2, 3 or 4, a public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.~~

~~2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:~~

~~(a) His *seeking or* acceptance of a gift or loan;~~

~~(b) His pecuniary interest; or~~

~~(c) His commitment in a private capacity to the interests of others.~~

~~➥ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose~~

~~interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.~~

~~3. In a county whose population is 400,000 or more, a member of a county or city planning commission shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:~~

~~(a) His *seeking or* acceptance of a gift or loan;~~

~~(b) His direct pecuniary interest; or~~

~~(c) His commitment to a member of his household or a person who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity.~~

~~➤ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his direct pecuniary interest or his commitment described in paragraph (c) where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the direct pecuniary interest or commitment.~~

~~4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:~~

~~(a) Regarding which he has *sought or* accepted a gift or loan;~~

~~(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or~~

~~(c) In which he has a pecuniary interest,~~

~~➤ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided *or from whom he sought* the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 in a timely manner.~~

~~5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that he will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.~~

~~6. After a member of the Legislature makes a disclosure pursuant to subsection 4, he may file with the Director of the Legislative Counsel Bureau a written statement of his disclosure. The written statement must designate the matter to which the disclosure applies. After a Legislator files a written statement pursuant to this subsection, he is not required to disclose orally his interest when the matter is further considered by the Legislature or any committee thereof. A written statement of disclosure is a public record and must be made available for inspection by the public during the regular office hours of the Legislative Counsel Bureau.~~

~~7. The provisions of this section do not, under any circumstances:~~

~~(a) Prohibit a member of the Legislative Branch from requesting or introducing a legislative measure; or~~

~~(b) Require a member of the Legislative Branch to take any particular action before or while requesting or introducing a legislative measure.~~

~~8. As used in this section, "commitment in a private capacity to the interests of others" means a commitment to a person:~~

~~(a) Who is a member of his household;~~

~~(b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;~~

~~(c) Who employs him or a member of his household;~~

~~(d) With whom he has a substantial and continuing business relationship; or~~

~~(e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.~~] *(Deleted by amendment.)*

Sec. 3.7. ~~[NRS 281.551 is hereby amended to read as follows:~~

~~281.551 1. In addition to any other penalty provided by law, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:~~

~~(a) Not to exceed~~ [$5,000] *$10,000* ~~for a first willful violation of this chapter;~~

~~(b) Not to exceed~~ [$10,000] *$15,000* ~~for a separate act or event that constitutes a second willful violation of this chapter; and~~

~~(c) Not to exceed~~ [$25,000] *$30,000* ~~for a separate act or event that constitutes a third willful violation of this chapter.~~

~~2. In addition to other penalties provided by law, the Commission may impose a civil penalty not to exceed $5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281.511~~

~~against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.~~

~~3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization by another person of a financial benefit, the Commission may, in addition to other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.~~

~~4. If the Commission finds that:~~

~~(a) A willful violation of this chapter has been committed by a public officer removable from office by impeachment only, the Commission shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.~~

~~(b) A willful violation of this chapter has been committed by a public officer removable from office pursuant to NRS 283.440, the Commission may file a proceeding in the appropriate court for removal of the officer.~~

~~(c) Three or more willful violations have been committed by a public officer removable from office pursuant to NRS 283.440, the Commission shall file a proceeding in the appropriate court for removal of the officer.~~

~~5. An action taken by a public officer or employee or former public officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505 is not a willful violation of a provision of those sections if the public officer or employee establishes by sufficient evidence that he satisfied all of the following requirements:~~

~~(a) He relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the public employee or upon the manual published by the Commission pursuant to NRS 281.471;~~

~~(b) He was unable, through no fault of his own, to obtain an opinion from the Commission before the action was taken; and~~

~~(c) He took action that was not contrary to a prior published opinion issued by the Commission.~~

~~6. In addition to other penalties provided by law, a public employee who willfully violates a provision of NRS 281.481, 281.491, 281.501 or 281.505 is subject to disciplinary proceedings by his employer and must be referred for action in accordance to the applicable provisions governing his employment.~~

~~7. NRS 281.481 to 281.541, inclusive, do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the~~

~~Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.~~

~~8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review.~~

~~9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.]~~ *(Deleted by amendment.)*

Sec. 4. ~~[NRS 218.906 is hereby amended to read as follows:~~

~~218.906 "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge or subscription of money or anything of value, including *the* cost of entertainment, except the payment of [a membership fee] *membership dues* otherwise exempted pursuant to NRS 218.926 and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make any expenditure . [while the Legislature is in session.]]~~ *(Deleted by amendment.)*

Sec. 5. ~~[NRS 218.926 is hereby amended to read as follows:~~

~~218.926 1. Each registrant shall file with the Director within 30 days after the close of the legislative session a final report signed under penalty of perjury concerning his lobbying activities. In addition, each registrant shall file with the Director between the 1st and 10th day of the month [after] :~~

~~*(a) After* each month that the Legislature is in session , a report *signed under penalty of perjury* concerning his lobbying activities during the previous month, whether or not any expenditures were made.~~

~~*(b) After the end of each calendar quarter that the Legislature is not in session, a report signed under penalty of perjury concerning his lobbying activities during the previous quarter, whether or not any expenditures were made.*~~

~~2. Each report *filed pursuant to subsection 1* must be on a form prescribed by the Director and must include the total of all expenditures, if any, made by the registrant on behalf of a Legislator or an organization whose primary purpose is to provide support for Legislators of a particular political party and House, including expenditures made by others on behalf of the registrant if the expenditures were made with the registrant's express or implied consent or were ratified by the registrant. Except as otherwise provided in subsection [4,] *5*, the report must identify each Legislator and each organization whose primary purpose is to provide support for Legislators of a particular political party and House on whose behalf expenditures were made and must be itemized with respect to each such Legislator and organization. An expenditure on behalf of a person other than a Legislator or an organization whose primary purpose is to provide support for Legislators of a particular political party and House need not be reported pursuant to this section unless the expenditure is made for the benefit of a Legislator or such an organization.~~

~~[2.] *3.* If expenditures made by or on behalf of a registrant during the previous month or *quarter, as applicable*, exceed $50, the report must include a compilation of expenditures, itemized in the manner required by the regulations of the Legislative Commission, in the following categories:~~

~~(a) Entertainment;~~

~~(b) Expenditures made in connection with a party or similar event hosted by the organization represented by the registrant;~~

~~(c) Gifts and loans, including money, services and anything of value provided to a Legislator, to an organization whose primary purpose is to provide support for Legislators of a particular political party and House, or to any other person for the benefit of a Legislator or such an organization; and~~

~~(d) Other expenditures directly associated with legislative action, not including personal expenditures for food, lodging and travel expenses or membership dues.~~

~~[3.] *4.* The Legislative Commission may authorize an audit or investigation by the Legislative Auditor that is proper and necessary to verify compliance with the provisions of this section. A lobbyist shall make available to the Legislative Auditor all books, accounts, claims, reports, vouchers and other records requested by the Legislative Auditor in connection with any such audit or investigation. The Legislative Auditor shall confine his requests for such records to those which specifically relate to the lobbyist's compliance with the reporting requirements of this section.~~

~~[4.] *5.* A report filed pursuant to this section must not itemize with respect to each Legislator an expenditure if the expenditure is the cost of a function to which every Legislator was invited. For the purposes of this subsection, "function" means a party, meal or other social event.]~~ *(Deleted by amendment.)*

Sec. 6. ~~[NRS 218.932 is hereby amended to read as follows:~~

~~218.932 1.~~ The Legislative Commission ~~[shall]~~ *:*

~~*(a) Shall* adopt regulations to carry out the provisions of NRS 218.900 to 218.944, inclusive ~~[, may]~~ *;*~~

~~*(b) Shall* require fees for registration, payable into the Legislative Fund, and ~~[may]~~ *fees for the course on ethics in government that is required pursuant to section 1 of this act, payable to the Commission on Ethics; and*~~

~~*(c) May* classify lobbyists for ~~[this purpose.]~~ *the purpose of establishing a schedule of fees.*~~

~~2.~~ The Director shall:

~~(a) Prepare and furnish forms for the statements and reports required to be filed.~~

~~(b) Prepare and publish uniform methods of accounting and reporting to be used by persons required to file such statements and reports, including guidelines for complying with the reporting requirements of NRS 218.900 to 218.944, inclusive.~~

~~(c) Accept and file any information voluntarily supplied that exceeds the requirements of NRS 218.900 to 218.944, inclusive.~~

~~(d) Develop a filing, coding and cross-indexing system consistent with the purposes of NRS 218.900 to 218.944, inclusive.~~

~~(e) Make the statements and reports available for public inspection during regular office hours.~~

~~(f) Preserve the statements and reports for a period of 5 years [from]~~ *after* ~~the date of filing.~~

~~(g) Compile and keep current an alphabetical list of registrants, including their address, the name and address of each person for whom the registrant is lobbying and the principal areas of interest on which he expects to lobby. A copy of the list must be furnished to each Legislator, to the clerks of the respective counties for preservation and public inspection, and to any person who requests a copy and pays the cost of reproduction.]~~ *(Deleted by amendment.)*

Sec. 7. ~~[Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 8 to 31, inclusive, of this act.]~~ *(Deleted by amendment.)*

Sec. 8. ~~*[Sections 8 to 31, inclusive, of this act may be cited as the Nevada Executive Department Lobbying Disclosure Act.]*~~ *(Deleted by amendment.)*

Sec. 9. ~~*[The Legislature declares that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their government for redress of grievances and to express freely to members of the Executive Department of the State Government their opinions on current issues and the management of government affairs.]*~~ *(Deleted by amendment.)*

Sec. 10. ~~*[As used in sections 8 to 31, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11 to 16, inclusive, of this act, have the meanings ascribed to them in those sections.]*~~ *(Deleted by amendment.)*

Sec. 11. ~~*["Executive action" means any official action or duty for which the Executive Department is responsible in establishing policy, but does not include such actions by employees that provide a specific service to the general public.]*~~ *(Deleted by amendment.)*

Sec. 12. ~~*["Executive Department" means the Executive Department of the State Government and includes a constitutional officer, an appointed member of a board or commission, an employee in the unclassified service of the State and an employee with authority to establish policy or effect executive action or with whom final authority rests.]*~~ *(Deleted by amendment.)*

Sec. 13. ~~*["Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge or subscription of money or anything of value, including the cost of entertainment, except the payment of membership dues otherwise exempted pursuant to section 21 of this act and any contract, agreement, promise or other obligation, whether*~~

~~*or not legally enforceable, to make any expenditure.]*~~ *(Deleted by amendment.)*

Sec. 14. ~~*[1. "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.*~~

~~*2. "Gift" does not include:*~~

~~*(a) A political contribution of money or services relating to a political campaign;*~~

~~*(b) A commercially reasonable loan made in the ordinary course of business;*~~

~~*(c) The cost of food or beverages;*~~

~~*(d) Anything of value received from a member of the recipient's immediate family or from a relative of the recipient or his spouse within the fifth degree of consanguinity or from the spouse of any such relative; or*~~

~~*(e) Costs and expenses associated with the attendance of a public officer, or the spouse or guest of a public officer, at an event relating to public office or at an event that benefits an organization which the Secretary of the Treasury has determined is an exempt organization pursuant to the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).]*~~ *(Deleted by amendment.)*

Sec. 15. ~~*[1. "Lobbyist" means, except as limited by subsection 2, a person who:*~~

~~*(a) Appears in person in a state building or any other building in which the Executive Department conducts business or holds meetings; and*~~

~~*(b) Communicates directly with the Executive Department on behalf of someone other than himself to influence executive action, and who receives compensation for the communication.*~~

~~*2. "Lobbyist" does not include:*~~

~~*(a) Persons who confine their activities to formal appearances before the Executive Department and who clearly identify themselves and the interest or interests for whom they are testifying.*~~

~~*(b) Employees of a bona fide news medium who meet the definition of "lobbyist" only in the course of their professional duties and who contact the Executive Department for the sole purpose of carrying out their news gathering function.*~~

~~*(c) Employees or members of any branch of State Government, or of any political subdivision of this State, who confine their lobbying activities to issues directly relating to the scope of their office or employment.*~~

~~*(d) A person who has been retained as legal counsel for a business or natural person relating to a legal action and who appears as a matter of course relating to the legal action.]*~~ *(Deleted by amendment.)*

Sec. 16. ~~*["Person" includes a group of persons acting in concert, whether or not formally organized.]*~~ *(Deleted by amendment.)*

Sec. 17. ~~*[Every person who acts as a lobbyist shall file an annual registration statement with the Secretary of State in such form and at such*~~

~~time as the Secretary of State prescribes. If a person who has not filed an annual registration statement engages in an activity that requires him to register as a lobbyist, he shall, not later than 2 days after the beginning of that activity, file a registration statement. Such registration is effective until the next annual registration period.]~~ *(Deleted by amendment.)*

Sec. 18. ~~*[The registration statement of a lobbyist must contain the following information:*~~

~~*1. The registrant's full name, permanent address, place of business and temporary address, if any, while lobbying.*~~

~~*2. The full name and complete address of each person, if any, by whom the registrant is retained or employed or on whose behalf the registrant appears.*~~

~~*3. A listing of any direct business associations or partnerships involving the Executive Department and the registrant or any person by whom the registrant is retained or employed. The listing must include any such association or partnership constituting a source of income or involving a debt or interest in real estate required to be disclosed in a statement of financial disclosure made by a candidate for public office or a public officer pursuant to NRS 281.571.*~~

~~*4. The name of any constitutional officer for whom:*~~

~~*(a) The registrant; or*~~

~~*(b) Any person by whom the registrant is retained or employed,*~~

~~*, has, in connection with a political campaign of the constitutional officer, provided consulting, advertising or other professional services.*~~

~~*5. A description of the principal areas of interest on which the registrant expects to lobby.*~~

~~*6. If the registrant lobbies or purports to lobby on behalf of members, a statement of the number of members.*~~

~~*7. A declaration under penalty of perjury that none of the registrant's compensation or reimbursement is contingent, in whole or in part, upon the production of any executive action.]*~~ *(Deleted by amendment.)*

Sec. 19. ~~*[Each person required to register shall file a notice of termination with the Secretary of State within 30 days after he ceases the activity that required his registration, but this does not relieve him of the reporting requirement for that reporting period. A person who has terminated his registration pursuant to this section may reinstate his registration before the end of the registration period by filing a request for reinstatement on a form prescribed by the Secretary of State and paying the applicable fee.]*~~ *(Deleted by amendment.)*

Sec. 20. ~~*[Each person required to register shall file a supplementary registration statement with the Secretary of State not later than 5 days after any change in the registrant's last registration statement. The supplementary registration statement must include complete details concerning the changes that have occurred.]*~~ *(Deleted by amendment.)*

Sec. 21. ~~[1. Each registrant shall file with the Secretary of State four quarterly reports each year, signed under penalty of perjury, concerning his lobbying activities during the previous quarter, whether or not any expenditures were made. The reports must be submitted not later than 10 days after the end of the quarter, except that the final report for the registration year must be submitted not later than 30 days after the end of the quarter.~~

~~2. Each report filed pursuant to subsection 1 must be on a form prescribed by the Secretary of State and must include the total of all expenditures, if any, made by the registrant on behalf of the Executive Department, including expenditures made by others on behalf of the registrant if the expenditures were made with the registrant's express or implied consent or were ratified by the registrant. Except as otherwise provided in subsection 5, the report must be itemized and identify the constitutional officer, agency, bureau, board, commission, department, division, officer, employee, agent or other unit of the Executive Department on whose behalf expenditures were made. An expenditure on behalf of a person other than the Executive Department or an organization whose primary purpose is to provide support for the Executive Department need not be reported pursuant to this section unless the expenditure is made for the benefit of the Executive Department or such an organization.~~

~~3. If expenditures made by or on behalf of a registrant during the previous quarter exceed $50, the report must include a compilation of expenditures, itemized in the manner required by the regulations of the Secretary of State, in the following categories:~~

~~(a) Entertainment;~~

~~(b) Expenditures made in connection with a party or similar event hosted by the organization represented by the registrant;~~

~~(c) Gifts and loans, including money, services and anything of value provided to the Executive Department, to an organization whose primary purpose is to provide support for the Executive Department, or to any other person for the benefit of the Executive Department or such an organization; and~~

~~(d) Other expenditures directly associated with executive action, not including personal expenditures for food, lodging and travel expenses or membership dues.~~

~~4. The Secretary of State may authorize an audit or investigation by the Attorney General or State Controller that is proper and necessary to verify compliance with the provisions of this section. A lobbyist shall make available to the Attorney General or State Controller all books, accounts, claims, reports, vouchers and other records requested by the Attorney General or State Controller in connection with any such audit or investigation. The Attorney General or State Controller shall confine his requests for such records to those which specifically relate to the lobbyist's compliance with the reporting requirements of this section.~~

~~*5. A report filed pursuant to this section must not itemize with respect to each constitutional officer, agency, bureau, board, commission, department, division, officer, employee, agent or other unit of the Executive Department an expenditure if the expenditure is the cost of a function to which any of those persons or agencies were invited. For the purposes of this subsection, "function" means a party, meal or other social event.]*~~ *(Deleted by amendment.)*

Sec. 22. ~~*[1. The Secretary of State shall furnish an appropriate identification badge to each lobbyist who files a registration statement under this chapter.*~~

~~*2. The identification badge must be worn by the lobbyist whenever he appears in a state building or other building in which the Executive Department conducts business or holds meetings.]*~~ *(Deleted by amendment.)*

Sec. 23. ~~*[1. The Secretary of State shall:*~~

~~*(a) Inspect each statement and report filed within 10 days after its filing.*~~

~~*(b) Immediately notify the person who has filed:*~~

~~*(1) If the information filed does not conform to law.*~~

~~*(2) If a written complaint has been filed with the Secretary of State by any person alleging an irregularity or lack of truth as to the information filed.*~~

~~*2. The Secretary of State may notify any person of the filing requirement who the Secretary of State has reason to believe has failed to file any statement or report as required.]*~~ *(Deleted by amendment.)*

Sec. 24. ~~*[1. The Secretary of State:*~~

~~*(a) Shall adopt regulations to carry out the provisions of sections 8 to 31, inclusive, of this act;*~~

~~*(b) Shall require fees for registration or reinstatement of registration, payable to the Secretary of State, and fees for the course on ethics in government that is required pursuant to section 1 of this act, payable to the Commission on Ethics; and*~~

~~*(c) May classify lobbyists for the purpose of establishing a schedule of fees.*~~

~~*2. The Secretary of State shall:*~~

~~*(a) Prepare and furnish forms for the statements and reports required to be filed.*~~

~~*(b) Prepare and publish uniform methods of accounting and reporting to be used by persons required to file such statements and reports, including guidelines for complying with the reporting requirements of sections 8 to 31, inclusive, of this act.*~~

~~*(c) Accept and file any information voluntarily supplied that exceeds the requirements of sections 8 to 31, inclusive, of this act.*~~

~~*(d) Develop a filing, coding and cross-indexing system consistent with the purposes of sections 8 to 31, inclusive, of this act.*~~

~~*(e) Make the statements and reports available for public inspection during regular office hours and on the Secretary of State's Internet website.*~~

~~*(f) Preserve the statements and reports for a period of 5 years after the date of filing.*~~

~~*(g) Compile and keep current an alphabetical list of registrants, including their addresses, the name and address of each person for whom the registrant is lobbying and the principal areas of interest on which he expects to lobby.]*~~ *(Deleted by amendment.)*

Sec. 25. ~~*[The Secretary of State may:*~~

~~*1. Prepare and publish such reports concerning lobbying activities as he deems appropriate.*~~

~~*2. Release to the public the name of any lobbyist who fails to file any activity report within 14 days after the date it is required to be filed.*~~

~~*3. Revoke the registration of any lobbyist who fails to file any activity report within 30 days after the date it is required to be filed or fails to file two or more activity reports within the time required.]*~~ *(Deleted by amendment.)*

Sec. 26. ~~*[1. The Secretary of State shall:*~~

~~*(a) Make investigations on his own initiative with respect to the failure of any person to file a required statement or report.*~~

~~*(b) Make an investigation upon the written complaint of any person alleging a violation of any provision of sections 8 to 31, inclusive, of this act.*~~

~~*(c) Report suspected violations of law to the Attorney General who shall investigate and take any action necessary to carry out the provisions of sections 8 to 31, inclusive, of this act.*~~

~~*2. If an investigation by the Secretary of State reveals a violation of any provision of sections 8 to 31, inclusive, of this act, by a lobbyist, the Secretary of State may suspend the lobbyist's registration for a specified period or revoke his registration. The Secretary of State shall cause notice of his action to be given to each person who employs or uses the lobbyist.*~~

~~*3. A lobbyist whose registration is suspended or revoked by the Secretary of State may:*~~

~~*(a) Request a hearing on the matter before the Secretary of State; and*~~

~~*(b) Appeal to a hearing officer of the Department of Administration from any adverse decision of the Secretary of State.*~~

~~*4. A lobbyist whose registration is revoked may, with the consent of the Secretary of State, renew his registration if he:*~~

~~*(a) Files a registration statement in the form required by section 18 of this act;*~~

~~*(b) Pays any fee for late filing owed pursuant to section 28 of this act, plus the fee for registration prescribed by the Secretary of State; and*~~

~~*(c) If the revocation occurred because of his failure to file an activity report, files that report.]*~~ *(Deleted by amendment.)*

Sec. 27. ~~*[The district courts may issue injunctions to enforce the provisions of sections 8 to 31, inclusive, of this act upon application by the Attorney General.]*~~ *(Deleted by amendment.)*

Sec. 28. ~~[1. Except as otherwise provided in this subsection, a registrant who files an activity report after the time provided in section 21 of this act shall pay to the Secretary of State a fee for late filing of $10 for each day that it was late, but the Secretary of State may reduce or waive this fee upon a finding of just cause. The Secretary of State may by regulation exempt a classification of lobbyist from the fee for late filing.~~

~~2. An activity report with respect to which a late filing fee has been paid by the registrant or waived by the Secretary of State shall be deemed timely filed, and the late filing is not a public offense.]~~ *(Deleted by amendment.)*

Sec. 29. ~~[1. A lobbyist shall not:~~

~~(a) Indicate that he has authorization from the Executive Department to request professional services from an officer or employee of state government unless he has such authority; or~~

~~(b) Misrepresent the scope of the authorization that he has from the Executive Department to request professional services from an officer or employee of state government.~~

~~2. As used in this section, "professional services" means engaging in work for which an officer or employee is professionally trained or qualified.]~~ *(Deleted by amendment.)*

Sec. 30. ~~[1. A lobbyist shall not knowingly or willfully make any false statement or misrepresentation of facts:~~

~~(a) To the Executive Department in an effort to persuade or influence executive action.~~

~~(b) In a registration statement or report concerning lobbying activities filed with the Secretary of State.~~

~~2. A lobbyist shall not give to a member of the Executive Department or a member of his immediate family gifts that exceed $100 in value in the aggregate in any calendar year.~~

~~3. A member of the Executive Department or a member of his immediate family shall not solicit anything of value from a registrant or accept any gift that exceeds $100 in aggregate value in any calendar year.~~

~~4. A person who employs or uses a lobbyist shall not make that lobbyist's compensation or reimbursement contingent in any manner upon the outcome of any executive action.~~

~~5. Except during the period permitted by section 17 of this act, a person shall not knowingly act as a lobbyist without being registered as required by that section.~~

~~6. Except as otherwise provided in subsection 7, a member of the Legislative Branch of the State Government or the Executive Department and an elected officer or employee of a political subdivision shall not receive compensation or reimbursement other than from the State or the political subdivision for personally engaging in lobbying.~~

~~7. An elected officer or employee of a political subdivision may receive compensation or reimbursement from any organization whose membership consists of elected or appointed public officers.~~

~~*8. A lobbyist shall not instigate any executive action for the purpose of obtaining employment to lobby in opposition thereto.*~~

~~*9. A lobbyist shall not make, commit to make or offer to make a monetary contribution to a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-elect, the Governor or the Governor-elect during the period beginning:*~~

~~*(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;*~~

~~*(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or*~~

~~*(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.]*~~ *(Deleted by amendment.)*

Sec. 31. ~~*[Any person subject to any of the provisions contained in section 30 of this act who refuses or fails to comply therewith is guilty of a misdemeanor.]*~~ *(Deleted by amendment.)*

Sec. 32. *The Legislature declares that lobbyists are hereby encouraged to complete a course on laws relating to ethics in government offered by the Commission on Ethics.*

~~[Sec. 32.]~~ *Sec. 33.* The provisions of section 1 of this act do not apply to any public officer elected or appointed to his office before October 1, 2007. ~~[A public employee who is employed on October 1, 2007, in a position whose primary function is to lobby other governmental entities on behalf of his employer shall complete the course on ethics in government required pursuant to section 1 of this act on or before January 1, 2008.]~~

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 364.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 756.

"SUMMARY—Revises certain provisions relating to ~~[the use of]~~ *information provided to* a grand jury. (BDR 14-1303)"

"AN ACT relating to criminal procedure; ~~[prohibiting the use of a grand jury in certain circumstances;]~~ *authorizing a defendant to submit a statement*

concerning the results of a preliminary hearing to a grand jury; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This bill expands the existing limitations on the use of a grand jury so that a district attorney is also prohibited from seeking the indictment of a person if the evidence presented by the district attorney during the preliminary hearing was insufficient to hold the person for trial, unless substantial evidence is discovered that was not available at the time of the preliminary hearing. (NRS 172.107)]~~ *This bill authorizes a defendant to submit a statement to a grand jury providing whether a preliminary hearing was held and, if so, that the evidence presented was considered insufficient to warrant holding the defendant for trial. (NRS 172.145)*

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

Section 1. ~~[NRS 172.107 is hereby amended to read as follows:~~

~~172.107 A district attorney shall not use a grand jury to :~~

~~*1. Seek the indictment of a person if the evidence presented by the district attorney during a preliminary examination is insufficient to warrant holding the person for trial, unless substantial evidence that was not available at the time of the preliminary examination is discovered; or*~~

~~2. Discover tangible, documentary or testimonial evidence to assist in the prosecution of a defendant who has already been charged with the public offense by indictment or information.]~~ *(Deleted by amendment.)*

Sec. 2. *NRS 172.145 is hereby amended to read as follows:*

172.145 1. The grand jury is not bound to hear evidence for the defendant ~~[.]~~ *, except that the defendant is entitled to submit a statement which the grand jury must receive providing whether a preliminary hearing was held concerning the matter and, if so, that the evidence presented was considered insufficient to warrant holding the defendant for trial.* It is their duty, however, to weigh all evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they shall order that evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

2. If the district attorney is aware of any evidence which will explain away the charge, he shall submit it to the grand jury.

3. The grand jury may invite any person, without process, to appear before the grand jury to testify.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Raggio and Amodei.

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

Motion carried.

Assembly Bill No. 383.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 785.

"SUMMARY—Makes various changes to laws related to immigration. (BDR 15-1053)"

"AN ACT relating to immigration; creating new crimes relating to trafficking in persons; providing for punitive damages in a civil action against a person who commits such crimes in certain circumstances; making property of a person who commits such crimes subject to forfeiture; adding the crimes to the list of felonies that may cause a person to be charged as a habitual felon; requiring the Director of the Department of Business and Industry to include on the website of the Department a link to the Social Security Administration for employers to verify employee social security numbers; providing for ~~[disciplinary action to be taken]~~ *an administrative fine to be imposed* against a person who holds a state business license if the person *willfully, flagrantly or otherwise egregiously* engages in the unlawful hiring or employment of an unauthorized alien in violation of federal law; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1.3 of this bill creates the crime of trafficking in persons for illegal purposes which involves engaging in certain acts concerning the transportation of an illegal alien into this State with the intent: 1) to subject the person to certain acts relating to involuntary servitude; 2) to commit another felony; or 3) to violate any state or federal labor law. A person who commits such a crime is guilty of a category B felony punishable by a term of imprisonment in the state prison for not less than 1 year and not more than 20 years, and by a fine of not more than $50,000. Section 1.5 of this bill creates the crime of trafficking in persons which contains the same elements as for trafficking in persons for illegal purposes except that rather than committing the act with the intent to commit another crime, the person commits the act in exchange for money or other financial gain. A person who commits the crime of trafficking in persons is guilty of a category B felony which is punishable by a term of imprisonment in the state prison for a minimum term of 1 year and a maximum term of 10 years, and by a fine of not more than $50,000.

Section 3 of this bill adds the two new crimes of trafficking in persons to the list of crimes that may cause a person to be charged as a habitual felon. (NRS 207.012) Section 4 of this bill allows a person who suffers an injury as the result of the willful violation of such crimes by a person who was motivated by certain characteristics of the person to recover actual and punitive damages in a civil action. (NRS 41.690) Section 5 of this bill makes personal property of a person who engages in either of the two crimes of trafficking in persons subject to forfeiture. (NRS 179.121)

Section 6 of this bill requires the Director of the Department of Business and Industry to include on the website maintained by the Department a link

to the Social Security Administration where an employer may verify the social security numbers of his employees.

Section 10 of this bill requires the Nevada Tax Commission to hold a hearing concerning any person who holds a state business license who has been found to have engaged in the unlawful hiring or employment of an unauthorized alien in violation of federal law. ~~[If the violation was inadvertent, the Commission may impose an administrative fine and require the person to demonstrate the manner in which he will prevent such violations in the future.]~~ If the violation is willful, *flagrant or otherwise egregious*, the Commission is ~~[authorized to suspend or revoke the license depending upon the egregiousness of the violation. If the license is revoked, the person may not obtain a new license for a certain period.]~~ *required to impose an administrative fine on the person.*

WHEREAS, Trafficking in persons provides opportunities for modern day slavery to occur; and

WHEREAS, Thousands of persons of all ages worldwide are trafficked annually across international borders; and

WHEREAS, Victims of trafficking in persons are often subjected to force, fraud or coercion for the purpose of subjecting the victims to sexual exploitation, prostitution, providing other forms of sexual entertainment or forced labor; and

WHEREAS, Victims of trafficking in persons may also be used to provide labor in a manner that violates labor laws, including, without limitation, providing labor for reduced wages in the areas of domestic services, restaurants, janitorial services, production work in factories and agricultural labor; and

WHEREAS, Traffickers often employ tactics to instill fear in victims and to deny them freedom, including, without limitation, keeping the victims locked against their will, isolating victims from the public and from their families, confiscating passports, visas or other documents, using or threatening to use violence against victims or their families, informing victims that they will be imprisoned or deported for the violation of immigration laws if they disobey or try to inform the authorities about their situation and controlling any money of the victims; and

WHEREAS, The Legislature recognizes that it is necessary for the State to protect these victims by ensuring that persons who engage in trafficking of persons are punished severely for engaging in such conduct; now therefore,

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. *1. A person shall not transport, procure transportation for or assist in the transportation of or procurement of transportation for another person into the State of Nevada whom he knows or has reason to know does*

not have the legal right to enter or remain in the United States with the intent to:

(a) Subject the person to involuntary servitude or any other act prohibited pursuant to NRS 200.463 or 200.465;

(b) Violate any state or federal labor law, including, without limitation, 8 U.S.C. § 1324a; or

(c) Commit any other crime which is punishable by not less than 1 year imprisonment in the state prison.

2. A person who violates the provisions of subsection 1 is guilty of trafficking in persons for illegal purposes and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $50,000.

Sec. 1.5. *1. A person shall not transport, procure transportation for or assist in the transportation of or procurement of transportation for another person into the State of Nevada whom he knows or has reason to know does not have the legal right to enter or remain in the United States in exchange for money or other financial gain.*

2. A person who violates the provisions of subsection 1 is guilty of trafficking in persons and, unless a greater penalty is provided pursuant to NRS 200.464 or section 1.3 of this act, shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $50,000.

Sec. 2. NRS 200.464 is hereby amended to read as follows:

200.464 ~~[A]~~ *Unless a greater penalty is provided pursuant to section 1.3 of this act, a* person who knowingly:

1. Recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that the person will be held in involuntary servitude; or

2. Benefits, financially or by receiving anything of value, from participating in a violation of NRS 200.463,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $50,000.

Sec. 3. NRS 207.012 is hereby amended to read as follows:

207.012 1. A person who:

(a) Has been convicted in this State of a felony listed in subsection 2; and

(b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this State would be a felony listed in subsection 2, whether the prior convictions occurred in this State or elsewhere,

➥ is a habitual felon and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

2. The district attorney shall include a count under this section in any information or shall file a notice of habitual felon if an indictment is found, if each prior conviction and the alleged offense committed by the accused constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of NRS 200.450, subsection 5 of NRS 200.460, NRS 200.463, 200.464, 200.465, subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS 202.780, paragraph (b) of subsection 2 of NRS 202.820, subsection 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060, subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of NRS 212.090, NRS 453.3325, 453.333, 484.219, 484.3795 or 484.37955 ~~.~~ *or section 1.3 or 1.5 of this act.*

3. The trial judge may not dismiss a count under this section that is included in an indictment or information.

Sec. 4. NRS 41.690 is hereby amended to read as follows:

41.690 1. A person who has suffered injury as the proximate result of the willful violation of the provisions of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460, 200.463, 200.464, 200.465, 200.471, 200.481, 200.508, 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060, 203.080, 203.090, 203.100, 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310, 207.180, 207.200 or 207.210 *or section 1.3 or 1.5 of this act* by a perpetrator who was motivated by the injured person's actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation may bring an action for the recovery of his actual damages and any punitive damages which the facts may warrant. If the person who has suffered injury prevails in an action brought pursuant to this subsection, the court shall award him costs and reasonable attorney's fees.

2. The liability imposed by this section is in addition to any other liability imposed by law.

Sec. 5. NRS 179.121 is hereby amended to read as follows:

179.121 1. All personal property, including, without limitation, any tool, substance, weapon, machine, computer, money or security, which is used as an instrumentality in any of the following crimes is subject to forfeiture:

(a) The commission of or attempted commission of the crime of murder, robbery, kidnapping, burglary, invasion of the home, grand larceny, theft if it is punishable as a felony, or pandering;

(b) The commission of or attempted commission of any felony with the intent to commit, cause, aid, further or conceal an act of terrorism;

(c) A violation of NRS 202.445 or 202.446;

(d) The commission of any crime by a criminal gang, as defined in NRS 213.1263; or

(e) A violation of NRS 200.463, 200.464, 200.465, 202.265, 202.287, 205.473 to 205.513, inclusive, 205.610 to 205.810, inclusive, 370.380, 370.382, 370.395, 370.405 or 465.070 to 465.085, inclusive ~~[.]~~ *, or section 1.3 or 1.5 of this act.*

2. Except as otherwise provided for conveyances forfeitable pursuant to NRS 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of NRS 202.287, 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the felony. If a conveyance is forfeited, the appropriate law enforcement agency may pay the existing balance and retain the conveyance for official use.

3. For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

4. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 6. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall include on the Internet website maintained by the Department a link which connects to the Social Security Administration where an employer may verify the social security number of an employee.

2. The link required pursuant to subsection 1 must be maintained in the area of the website that encourages and promotes the growth, development and legal operation of businesses within the State of Nevada.

Sec. 7. NRS 232.505 is hereby amended to read as follows:

232.505 As used in NRS 232.505 to 232.840, inclusive, *and section 6 of this act,* unless the context requires otherwise:

1. "Department" means the Department of Business and Industry.

2. "Director" means the Director of the Department.

Sec. 8. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. *"Unauthorized alien" has the meaning ascribed to it in 8 U.S.C. § 1324a(h)(3).*

Sec. 10. *1. Upon finding that the Attorney General of the United States has made a final decision and entered an order that a person who holds a state business license has engaged in the unlawful hiring or employment of an unauthorized alien pursuant to U.S.C § 1324a(e), the Nevada Tax Commission shall hold a hearing to determine whether to take action against ~~[the state business license of]~~ the person.*

2. The Nevada Tax Commission shall consider any proof submitted by the person who holds a state business license which demonstrates that the person attempted to verify the social security number of the unauthorized alien within 6 months from the date on which the unauthorized alien was allegedly employed. Such proof may include, without limitation, a printout from the link maintained on the Internet website of the Department of Business and Industry pursuant to section 6 of this act. Such proof may be used as prima facie evidence that the violation was ~~[inadvertent.]~~ not willful, flagrant or otherwise egregious.

3. If the Nevada Tax Commission determines that the person who holds the state business license violated the federal law ~~[:~~

~~(a) Inadvertently, the Commission may impose an administrative fine upon the person or require the person to provide an explanation concerning the manner in which the person will conduct business in the future to prevent additional violations of the law; or~~

~~(b) Willfully,~~ willfully, flagrantly or otherwise egregiously, the Commission ~~[may suspend or revoke the state business license of the person depending on the egregiousness of the violation.~~

~~4. The Department shall not issue a new license to a person whose state business license is revoked pursuant to this section:~~

~~(a) For 1 year after the date of revocation for the first revocation pursuant to this section.~~

~~(b) For 5 years after the date of revocation for a second or subsequent revocation pursuant to this section.~~

~~*5. Upon revoking a state business license pursuant to this section, the Department shall provide written notice of the revocation to the governing body of the city or county in which the business is being conducted.*~~

~~*6.*~~ *shall impose an administrative fine against the person in an amount established by the Commission by regulation. Any such administrative fine imposed must be deposited in the State General Fund.*

4. The Nevada Tax Commission shall adopt such regulations as it determines necessary to carry out the provisions of this section.

Sec. 11. NRS 360.760 is hereby amended to read as follows:

360.760 As used in NRS 360.760 to 360.798, inclusive, *and sections 9 and 10 of this act,* unless the context otherwise requires, the words and terms defined in NRS 360.765 to 360.775, inclusive, *and section 9 of this act,* have the meanings ascribed to them in those sections.

Sec. 12. ~~[NRS 360.798 is hereby amended to read as follows:~~

~~360.798 1. If a person who holds a state business license fails to comply with a provision of NRS 360.760 to 360.798, inclusive, or a regulation of the Department adopted pursuant thereto, *or if the Nevada Tax Commission determines that the person has engaged in the unlawful hiring or employment of an unauthorized alien pursuant to section 10 of this act,* the Department may revoke or suspend the state business license of the person. Before so doing, the Department must hold a hearing after 10 days' written notice to the licensee. The notice must specify the time and place of the hearing and require the licensee to show cause why his license should not be revoked.~~

~~2. If the license is suspended or revoked, the Department shall give written notice of the action to the person who holds the state business license.~~

~~3. The notices required by this section may be served personally or by mail in the manner provided in NRS 360.350 for the service of a notice of the determination of a deficiency.~~

~~4. The Department shall not issue a new license to the former holder of a revoked state business license unless the Department is satisfied that the person will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.]~~ *(Deleted by amendment.)*

Sec. 13. NRS 613.080 is hereby amended to read as follows:

613.080 1. The immigration to this State of all slaves and other people bound by contract to involuntary servitude for a term of years is hereby prohibited.

2. It is unlawful for any company, person or persons to collect the wages or compensation for the labor of the persons described in subsection 1.

3. It is unlawful for any corporation, company, person or persons to pay to any owner or agent of the owner of any such persons mentioned in subsection 1 any wages or compensation for the labor of such slaves or persons so bound by the contract to involuntary servitude.

4. Unless a greater penalty is provided in NRS 200.463 or 200.464 ~~[,]~~ *or section 1.3 of this act,* a violation of any of the provisions of this section is a gross misdemeanor.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 461.

Bill read second time.

The following amendment was proposed by Senator McGinness:

Amendment No. 803.

"SUMMARY—Makes certain changes ~~[to the Clark County Sales and Use Tax Act of 2005.]~~ *concerning sales and use taxes.* (BDR S-1333)"

"AN ACT relating to taxation; providing for certain reporting requirements and the review of certain expenditures relating to the Clark County Sales and Use Tax Act of 2005; *authorizing the Board of County Commissioners of Nye County to increase the sales and use tax to support public safety services in Nye County;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Clark County Sales and Use Tax Act of 2005 authorized the Board of County Commissioners of Clark County to impose up to one-half of 1 percent sales and use tax to employ and equip additional police officers for various police departments in Clark County. ~~[This]~~ *Section 1 of this* bill adds a requirement that any governmental entity that authorizes expenditures from the tax revenues for a police department must submit periodic reports to the Legislature concerning the use of that money, and authorizes the Legislative Commission to review and investigate those expenditures.

Sections 3-22 of this bill are modeled on the provisions of the Clark County Sales and Use Tax Act of 2005, and authorize the Board of County Commissioners of Nye County to impose an additional sales tax of up to one-half of 1 percent for the purposes of recruiting, employing and equipping additional firefighters, deputy sheriffs and other public safety personnel and constructing, improving and equipping public safety facilities in Nye County. Any proposed change in the use of the proceeds of the tax must be submitted to the voters and be approved by the Legislature.

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

Section 1. The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 13.5, immediately following section 13, to read as follows:

Sec. 13.5. 1. Any governing body that has approved expenditures pursuant to section 13 of this Act shall submit to the Director of the Legislative Counsel Bureau for transmittal to the

members of the Legislature or the Legislative Commission when the Legislature is not in regular session, the periodic reports required pursuant to this section and such other information relating to the provisions of this Act as may be requested by the Director of the Legislative Counsel Bureau.

2. The reports required pursuant to this section must be submitted:

(a) On or before:

(1) February 15 for the 3-month period ending on the immediately preceding December 31;

(2) May 15 for the 3-month period ending on the immediately preceding March 31;

(3) August 15 for the 3-month period ending on the immediately preceding June 30; and

(4) November 15 for the 3-month period ending on the immediately preceding September 30; and

(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.

3. Each report must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include, with respect to the period covered by the report:

(a) The total proceeds received by the respective police department from the sales and use tax imposed pursuant to this Act;

(b) A detailed description of the use of the proceeds, including, without limitation:

(1) The total expenditures made by the respective police department from the sales and use tax imposed pursuant to this Act;

(2) The total number of police officers hired by the police department and the number of those officers that are filling authorized, funded positions for new officers; and

(3) A detailed analysis of the manner in which each expenditure:

(I) Conforms to all provisions of this Act; and

(II) Does not replace or supplant funding which existed before October 1, 2005, for the police department; and

(c) Any other information required to complete the form for the report.

4. The Legislative Commission may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section 13 of this Act.

Sec. 2. Notwithstanding the provisions of section 1 of this act, the report submitted pursuant to section 1 of this act by a governing body to the Director of the Legislative Counsel Bureau on or before November 15, 2007, must separately cover:

1. The period beginning on October 1, 2005, and ending on September 30, 2007; and

2. The period beginning on July 1, 2006, and ending on June 30, 2007.

Sec. 3. *Sections 3 to 22, inclusive, of this act may be cited as the Nye County Sales and Use Tax Act of 2007.*

Sec. 4. *The Legislature hereby finds and declares that:*

1. Nye County has experienced and continues to experience substantial growth, growing from a population of 32,485 residents in 2000 to a projected population of over 44,580 residents in 2006;

2. Nye County is the third largest county in terms of geographic area in the United States and the growth in Nye County has occurred over this wide geographical area;

3. The increase in the number of public safety personnel and facilities to protect the residents of Nye County has not kept pace with this growth;

4. The danger from fire and crime is increasing in Nye County, and so is the time it takes for public safety personnel to respond when a resident reports a fire or crime;

5. It is intended that the Board of County Commissioners of Nye County establish a program that promotes community participation in protecting the residents of the community that includes, without limitation:

(a) A written policy on providing public safety services oriented toward the involvement of residents of the community;

(b) The provision of training for all public safety personnel employed in the County that includes, without limitation, training relating to:

(1) Methods that may be used to analyze, respond to and solve problems commonly confronted by public safety personnel in the community;

(2) The cultural and racial diversity of the residents of the community;

(3) The proper utilization of community resources, such as local housing authorities, public utilities and local public officials, that are available to assist in providing public safety services; and

(4) Issues concerning not only the prevention of fires and crime, but also improving the quality of life for the residents of the community; and

(c) The formation of partnerships with the residents of the community and public and private agencies and organizations to address mutual concerns relating to the provision of public safety services;

6. A general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act because of the demographic, economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Nye County and the special financial conditions experienced in the County relating to the need to recruit, employ and equip more public safety personnel and to construct, improve and equip public safety facilities; and

7. The powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.

Sec. 5. Except as otherwise provided in this act or unless the context otherwise requires, the terms used or referred to in this act have the meanings ascribed to them in chapter 374 of NRS, as from time to time amended, but the definitions in sections 6 to 13, inclusive, of this act, unless the context otherwise requires, govern the construction of this act.

Sec. 6. "Act" means the Nye County Sales and Use Tax Act of 2007.

Sec. 7. "Board" means the Board of County Commissioners of Nye County.

Sec. 8. "County" means Nye County.

Sec. 9. "County Treasurer" means the County Treasurer of Nye County.

Sec. 10. "Department" means the Department of Taxation created pursuant to NRS 360.120.

Sec. 11. "Employ" means making an expenditure for the purpose of providing employment, including, without limitation, paying wages and benefits.

Sec. 12. "Recruit" means making an expenditure for the purpose of attracting applicants for employment or persuading an applicant to accept employment, including, without limitation, providing materials and services relating to recruitment, paying signing bonuses, paying expenses relating to relocation and providing assistance with the purchase of a house.

Sec. 13. "Sheriff" means the Sheriff of Nye County.

Sec. 14. 1. The Board may enact an ordinance imposing a local sales and use tax to:

(a) Recruit, employ and equip additional firefighters, deputy sheriffs to the Sheriff and other public safety personnel;

(b) Improve and equip existing public safety facilities; and

(c) Construct and equip new public safety facilities.

2. Before enacting such an ordinance, the Board shall hold a public hearing to present its plan for implementing the local sales and use tax.

3. The proceeds from the tax authorized pursuant to this section, including interest and other income earned thereon, must be:

(a) Allocated for expenditure:

(1) In the areas of Pahrump, Amargosa Valley, Beatty, Tonopah, Round Mountain, Manhattan, Gabbs and any other town or city created in Nye County after October 1, 2007, and in the remaining unincorporated area of Nye County on a pro rata basis in each of those areas based upon the ratio of the population of that area to the total population of Nye County; or

(2) In any other manner that the Board and the governing body of each of those areas agree to be appropriate to carry out the purposes set forth in subsection 1 in accordance with the provisions of section 17 of this act.

➥ As used in this paragraph, "population" means the estimated annual population determined pursuant to NRS 360.283.

(b) Used only as approved pursuant to section 17 of this act and only for the purposes set forth in subsection 1 unless the Legislature changes the use. The Board shall, before submitting to the Legislature any request to change

the uses for the proceeds from the tax, submit an advisory question to the voters of the County pursuant to NRS 293.482, asking whether the uses for the proceeds from the tax should be so changed. The Board shall not submit such a request to the Legislature if a majority of the voters in the County disapprove the proposed change.

Sec. 15. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate that does not exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed on the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed, which must not be earlier than the first day of the second calendar month following the effective date of the ordinance.

Sec. 16. An ordinance amending an ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include a provision in substance that the Board shall amend a contract made pursuant to subsection 4 of section 15 of this act by a contract made between the Board and the Department before the effective date of the amendatory ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is needed.

Sec. 17. 1. The proceeds received from any sales and use tax imposed pursuant to this act must be expended in each of the areas to which those proceeds are allocated for expenditure pursuant to section 14 of this act in

such a manner that half of those proceeds are expended for the support of the services provided by local fire departments in that area and the remaining half of those proceeds are expended for the support of the services provided by the Sheriff in that area.

2. No expenditure of those proceeds may be made unless the expenditure has been approved by the governing body of the area to which those proceeds have been allocated for expenditure. The governing body must approve the expenditure of the proceeds if it determines that:

(a) The proposed use of the money conforms to all provisions of this act; and

(b) The proposed use will not replace or supplant existing funding for the purposes set forth in subsection 1 of section 14 of this act for the support of the services provided by local fire departments and the Sheriff in that area.

3. In determining whether a proposed use meets the requirement set forth in paragraph (b) of subsection 2, the governing body shall determine whether the amount approved for expenditure for the fiscal year for the purposes set forth in subsection 1 of section 14 of this act for the support of the services of local fire departments and the Sheriff in that area, not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the purposes set forth in subsection 1 of section 14 of this act for the support of the services of local fire departments and the Sheriff in that area.

Sec. 17.5. Any governing body of an area that has approved expenditures pursuant to section 17 of this act shall, on or before September 1 of each year, submit a detailed description of the use of the money, including, without limitation, a detailed analysis of the manner in which each expenditure:

1. Conforms to all provisions of this act; and

2. Does not replace or supplant funding which existed before October 1, 2007, for the purposes set forth in subsection 1 of section 14 of this act for the support of the services provided by local fire departments and the Sheriff in that area,

➥ to the Director of the Legislative Counsel Bureau for transmittal to the members of the Legislature.

Sec. 18. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a percentage of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as

compensation to the State for the cost of collecting the tax. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.

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

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 19. The Department may redistribute any proceeds from the taxes, interest or penalties collected pursuant to this act which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department obtains knowledge of the improper distribution.

Sec. 20. 1. The County Treasurer shall:

(a) Deposit money received from the State Controller pursuant to paragraph (c) of subsection 3 of section 18 of this act into the County Treasury for credit to a special revenue fund created for the use of the proceeds from the tax authorized by this act; and

(b) Allocate that money into separate accounts within that fund as appropriate to carry out the provisions of paragraph (a) of subsection 3 of section 14 of this act.

2. The special revenue fund of the County created for the use of the proceeds from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.

3. Interest earned on the special revenue fund created pursuant to subsection 1 must be credited to the fund. The money in each such fund must remain in the fund and must not revert to the County Treasury at the end of any fiscal year.

Sec. 21. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the Department may act for and on behalf of the County.

Sec. 22. 1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any other law and the limitations imposed by this act do not affect the powers conferred by any other law.

2. This act must not be construed to prevent the exercise of any power granted by any other law to the County or any officer, agent or employee of the County.

3. This act must not be construed to repeal or otherwise affect any other law or part thereof.

4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.

5. If any provision of this act, or application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

~~[Sec. 3.]~~ *Sec. 23.* ~~[This act becomes effective on October 1, 2007, and expires by limitation on October 1, 2025.]~~ *1. This section and sections 3 to 22, inclusive, of this act become effective:*

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

(b) On October 1, 2007, for all other purposes.

2. Sections 1 and 2 of this act become effective on October 1, 2007, and expire by limitation on October 1, 2025.

3. Sections 3 to 22, inclusive, of this act expire by limitation on October 1, 2027.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 517.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 867.

"SUMMARY—Makes various changes to election laws. (BDR 24-542)"

"AN ACT relating to elections; eliminating various obsolete provisions; providing that a voter registration card does not provide proof of the identity, address or residence of a person; *authorizing certain registered voters to submit absent ballots by facsimile machine;* revising the definition of "candidate" for the purposes of requirements relating to campaign finance; requiring that the signatures on a petition for an initiative or referendum must be submitted to each county clerk on the same day if circulated in more than one county; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law makes various references to punch card ballots and the duties of various persons in relation to punch card ballots. (Title 24 of NRS) Sections 1, 3, 4, 7-20, 24-31, 33, 35-48, 50-53 and 57-59 of this bill eliminate these provisions.

Existing law requires a person to furnish proof of identity or residence when filing a declaration or acceptance of candidacy, when registering to vote or when voting in certain circumstances. (NRS 293.177, 293.2725, 293.303, 293.517, 293.541, 293C.185, 293C.292) Sections 2, 5, 6, 21, 22, 32

and 34 of this bill provide that a voter registration card does not provide proof of address, identity or residence.

Existing law authorizes any registered voter who resides outside the continental United States to use a facsimile machine to request an absent ballot. The county clerk shall use a facsimile machine to send an absent ballot to the registered voter, and the registered voter is required to return his absent ballot by mail. (NRS 293.3157) Sections 7.5 and 35.5 of this bill authorize a registered voter who resides outside the continental United States and uses a facsimile machine to request an absent ballot and to choose whether to return the ballot by facsimile or mail.

Existing law requires that a sample ballot be mailed to each registered voter before the period for early voting at an election begins, but not later than 10 days before the election. (NRS 293.565, 293C.530) Sections 23 and 49 of this bill require that the sample ballots be mailed before the period of early voting for the election begins.

Existing law defines the term "candidate" for the purposes of the campaign finance laws to include anyone who has filed a declaration or acceptance of candidacy, anyone whose name appears on an official ballot or anyone who has accepted more than $100. (NRS 294A.005) Section 54 of this bill clarifies that a candidate is anyone who has accepted more than $100, regardless of whether the person has filed a declaration or acceptance of candidacy or whether the name of the person appears on an official ballot.

Existing law requires that all documents submitted to a county clerk for signature verification on a petition for an initiative or referendum must be submitted at the same time. (NRS 295.056) Section 55 of this bill requires that all documents submitted for signature verification on a petition for an initiative or referendum which was circulated in more than one county must be submitted to each county clerk on the same day.

Existing law authorizes the Secretary of State to issue a fictitious address to a person who has been the victim of domestic violence, sexual assault or stalking. (NRS 217.462-217.471) The Secretary of State is authorized to cancel the fictitious address of a person in certain circumstances. (NRS 217.468) Section 56 of this bill provides that the Secretary of State may cancel a fictitious address if the person files a declaration or acceptance of candidacy.

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

Section 1. NRS 293.025 is hereby amended to read as follows:

293.025 "Ballot" means the record of a voter's preference of candidates and questions voted upon at an election. The term includes, without limitation, any paper given to a voter upon which he places his vote ~~[, a punch card which records the vote of a voter]~~ and electronic storage tapes.

Sec. 2. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person

named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than the first Monday in May of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in May.

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned …….., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ..... day of the month of ..... of the year .....

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……, in the City or Town of ……., County of ……, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ..... day of the month of ..... of the year .....

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[, without limitation,]~~ a check ~~[,]~~ which indicates the candidate's name and residential address ~~[.]~~ *, but not including a voter registration card issued pursuant to NRS 293.517.*

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 3. NRS 293.262 is hereby amended to read as follows:

293.262 An absent ballot or a ballot voted by a voter who resides in a mailing precinct must be voted:

1. On a paper ballot ~~[.~~

~~2. On a ballot which is voted by punching a card; or~~

~~3.]~~ *; or*

2. By any other system authorized by state or federal law.

Sec. 4. NRS 293.2693 is hereby amended to read as follows:

293.2693 If a county or city uses paper ballots , ~~[or punch cards in an election,]~~ including, without limitation, for absent ballots and ballots voted in a mailing precinct, the county or city clerk shall provide a voter education program specific to the voting system used by the county or city. The voter education program must include, without limitation, information concerning the effect of overvoting and the procedures for correcting a vote on a ballot before it is cast and counted and for obtaining a replacement ballot.

Sec. 5. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[, without limitation,]~~ a check ~~[,]~~ which indicates the name and address of the person ~~[,]~~ , *but not including a voter registration card issued pursuant to NRS 293.517;* and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[, without limitation,]~~ a check ~~[,]~~ which indicates the name and address of the person ~~[,]~~ , *but not including a voter registration card issued pursuant to NRS 293.517.*

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with his application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[, without limitation,]~~ a check ~~[,]~~ which indicates the name and address of the person ~~[.]~~ , *but not including a voter registration card issued pursuant to NRS 293.517;*

(b) Registers to vote by mail and submits with his application to register to vote a driver's license number or at least the last four digits of his social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in his application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 6. NRS 293.303 is hereby amended to read as follows:

293.303 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct or district upon the ground that he is not the person entitled to vote as claimed or has voted before at the same election; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that he does not belong to the political party designated upon the register, "I swear or affirm under penalty of perjury that I belong to the political party designated upon the register";

(b) If the challenge is on the ground that the register does not show that he designated the political party to which he claims to belong, "I swear or affirm under penalty of perjury that I designated on the application to register to vote the political party to which I claim to belong";

(c) If the challenge is on the ground that he does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";

(d) If the challenge is on the ground that he previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or

(e) If the challenge is on the ground that he is not the person he claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this election board register."

➥ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, he must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged ....." opposite his name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue him a nonpartisan ballot.

5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform him that he is entitled to vote only in the manner prescribed in NRS 293.304.

6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (e) of subsection 2, the election board officers shall issue him a partisan ballot.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he furnishes satisfactory identification which contains proof of the address at which he actually resides. *For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.*

8. If the challenge is based on the ground set forth in paragraph (e) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless he:

(a) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he swears he is.

9. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

Sec. 7. NRS 293.304 is hereby amended to read as follows:

293.304 1. If a person is successfully challenged on the ground set forth in paragraph (c) of subsection 2 of NRS 293.303 or if a person refuses

to provide an affirmation pursuant to NRS 293.525, the election board shall instruct the voter that he may vote only at the special polling place in the manner set forth in this section.

2. The county clerk of each county shall maintain a special polling place in his office and at such other locations as he deems necessary during each election. The ballots voted at the special polling place must be kept separate from the ballots of voters who have not been so challenged or who have provided an affirmation pursuant to NRS 293.525 in:

(a) A special ballot box if the ballots are paper ballots *;* ~~[or ballots which are voted by punching a card;]~~ or

(b) A special sealed container if the ballots are ballots which are voted on a mechanical recording device which directly records the votes electronically.

3. A person who votes at a special polling place may place his vote only for the following offices and questions:

(a) President and Vice President of the United States;

(b) United States Senator;

(c) All state officers for whom all voters in the State may vote;

(d) All officers for whom all voters in the county may vote; and

(e) Questions which have been submitted to all voters of the county or State.

4. The ballots voted at the special polling place must be counted when other ballots are counted and:

(a) If the ballots are paper ballots , ~~[or ballots which are voted by punching a card,]~~ maintained in a separate ballot box; or

(b) If the ballots are ballots which are voted on a mechanical recording device which directly records the votes electronically, maintained in a separate sealed container,

➥ until any contest of election is resolved or the date for filing a contest of election has passed, whichever is later.

Sec. 7.5. *NRS 293.3157 is hereby amended to read as follows:*

293.3157 1. Any registered voter of this State who resides outside the continental United States may use a facsimile machine to request an absent ballot. *The registered voter shall state on the request whether he requests the county clerk to send the absent ballot by mail or facsimile machine and whether he will return the absent ballot to the county clerk by mail or facsimile machine.*

2. *If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the county clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:*

(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct in which he is voting and is the person whose name appears on the envelope;

(b) The signature of the registered voter;

(c) The address that the registered voter provided on his application for voter registration; and

(d) A statement that the voter has not applied and will not apply to any other county clerk for an absent ballot.

3. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by facsimile machine, he shall include with his completed absent ballot the following:

OATH OF VOTER

I, , acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is

_____

(Street Address) (City) (ZIP Code)

My current mailing address is

_____

My e-mail address is .

My facsimile transmission number is .

I am a resident of County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this day of , 20 .

(Signed)

_____

voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.

4. The county clerk *, if so requested pursuant to subsection 1,* shall use a facsimile machine to send an absent ballot *and the oath, as required pursuant to subsection 3,* to the registered voter.

~~[3. The registered voter shall mail his absent ballot to the county clerk.~~

~~4.]~~ *5. Each county clerk shall ensure the secrecy of absentee ballots that are submitted by facsimile machine.*

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 8. NRS 293.323 is hereby amended to read as follows:

293.323 1. Except as otherwise provided in subsection 2, if the request for an absent ballot is made by mail or facsimile machine, the county clerk

shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail , *unless otherwise requested pursuant to NRS 293.3157,* if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail , *unless otherwise requested pursuant to NRS 293.3157,* if the absent voter is in a foreign country but not on a military base:

(a) ~~[Except as otherwise provided in paragraph (b):~~

~~(1)]~~ An absent ballot;

~~[(2)]~~ *(b)* A return envelope;

~~[(3)]~~ *(c)* Supplies for marking the ballot;

~~[(4)]~~ *(d)* An envelope or similar device into which the ballot is inserted to ensure its secrecy; ~~[and]~~

~~[(5) Instructions.~~

~~(b) In those counties using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(1) A card attached to a sheet of foam plastic or similar backing material;~~

~~(2) A return envelope;~~

~~(3) A punching instrument;~~

~~(4) A sample ballot;~~

~~(5) An envelope or similar device into which the card is inserted to ensure its secrecy; and~~

~~(6)]~~ *(e) An identification envelope, if applicable pursuant to NRS 293.3157; and*

(f) Instructions.

2. If the county clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the county clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter ~~[shall]~~ *may* mail his absent ballot to the county clerk ~~[.]~~ *or submit his absent ballot by facsimile machine.*

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2 ~~[.]~~ *and NRS 293.3157.*

5. Before depositing a ballot in the mails or sending a ballot by facsimile machine, the county clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, his political affiliation, if any, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

Sec. 8.5. NRS 293.325 is hereby amended to read as follows:

293.325 1. Except as otherwise provided in subsections 2 and 3, when an absent ballot is returned by a registered voter to the county clerk through the mails *or facsimile machine* and record thereof is made in the absent ballot record book, the county clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If the county clerk has appointed an absent ballot central counting board, the county clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope *or facsimile* against the original signature of the voter on the county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box. At the end of each day before election day, the county clerk may remove the ballots from each ballot box and neatly stack the ballots in a container. Except as otherwise provided in subsection 3, on election day the county clerk shall deliver the ballot box and, if applicable, each container to the absent ballot counting board to be counted.

3. If the county uses a mechanical voting system, the county clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope *or facsimile* against the original signature of the *voter on the* county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the county clerk at all times. At the end of each day before election day, the county clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Except as otherwise provided in this subsection, on election day the county clerk shall deliver the ballot box and each container, if applicable, to the central counting place. If the county uses a mechanical voting system and the county clerk has appointed an absent ballot central counting board, the county clerk may, not earlier than 4 working days before the election, deliver the ballots to the absent ballot central counting board to be processed and prepared for tabulation pursuant to the procedures established by the Secretary of State.

Sec. 9. NRS 293.330 is hereby amended to read as follows:

293.330 1. Except as otherwise provided in NRS 293.3157 and subsection 2 of NRS 293.323 and any regulations adopted pursuant thereto, when an absent voter receives his ballot, he must mark and fold it ~~[, if it is a paper ballot, or punch it, if the ballot is voted by punching a card,]~~ in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:

(a) The office of the county clerk, he must mark ~~[or punch]~~ the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.

(b) A polling place, including, without limitation, a polling place for early voting, he must surrender the absent ballot and provide satisfactory identification before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."

3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the county clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

(a) Provides satisfactory identification;

(b) Is a registered voter who is otherwise entitled to vote; and

(c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. Except as otherwise provided in NRS 293.316, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of his family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that he is a member of the family of the voter who requested the absent ballot and that the voter requested that he return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 9.5. *NRS 293.333 is hereby amended to read as follows:*

293.333 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the county clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported pursuant to NRS 293.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope ~~[,]~~ *or facsimile,* must be called and checked as if the voter were voting in person;

2. The signature on the back of the return envelope *or on the facsimile* must be compared with that on the original application to register to vote;

3. If the board determines that the absent voter is entitled to cast his ballot, the envelope must be opened, the numbers on the ballot and envelope compared,

the number strip or stub detached from the ballot, and, if the numbers are the same, the ballot deposited in the regular ballot box; and

4. The election board officers shall mark in the pollbook opposite the name of the voter the word "Voted."

Sec. 10. NRS 293.350 is hereby amended to read as follows:

293.350 1. The county clerk shall:

(a) Make certain of the names and addresses of all voters registered to vote in mailing precincts and absent ballot mailing precincts;

(b) Enroll the name and address of each voter found eligible to vote in those precincts in the mailing precinct record book;

(c) Mark the number of the ballot on the return envelope; and

(d) Mail the ballot to the registered voter.

2. ~~[Except as otherwise provided in subsection 3, the]~~ *The* ballot must be accompanied by:

(a) Supplies for marking the ballot;

(b) A return envelope;

(c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;

(d) A sample ballot; and

(e) Instructions regarding the manner of marking and returning the ballot.

~~[3. In those counties using a mechanical voting system whereby a vote is cast by punching a card, the ballot must be accompanied by:~~

~~(a) A sheet of foam plastic or similar backing material attached to the card;~~

~~(b) A punching instrument;~~

~~(c) A return envelope;~~

~~(d) An envelope or similar device into which the card is inserted to ensure its secrecy;~~

~~(e) A sample ballot; and~~

~~(f) Instructions regarding the manner of punching and returning the card.]~~

Sec. 11. NRS 293.353 is hereby amended to read as follows:

293.353 Upon receipt of a mailing ballot from the county clerk, the registered voter must:

1. ~~[Except as otherwise provided in subsection 2:~~

~~(a)]~~ Immediately after opening the envelope, mark and fold the ballot;

~~[(b)]~~ *2.* Place the ballot in the return envelope;

~~[(c)]~~ *3.* Affix his signature on the back of the envelope; and

~~[(d)]~~ *4.* Mail or deliver the envelope to the county clerk.

~~[2. In those counties using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(a) Immediately after opening the envelope, punch the card;~~

~~(b) Place the unfolded card in the return envelope;~~

~~(c) Affix his signature on the back of the envelope; and~~

~~(d) Mail or deliver the envelope to the county clerk.]~~

Sec. 12. NRS 293.356 is hereby amended to read as follows:

293.356 If a request is made to vote early by a registered voter in person, the election board shall issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of a polling place for early voting established pursuant to NRS 293.3564 or 293.3572 and returned to the

election board. If the ballot is a paper ballot ~~[, a ballot which is voted by punching a card]~~ or a ballot which is voted by any other system authorized by state or federal law, the election board shall follow the same procedure as in the case of absent ballots received by mail.

Sec. 13. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; and

(c) Verify the signature of the voter against that contained on the original application to register to vote or facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification.

2. The county clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

(a) The voter's name, the address where he is registered to vote, his voter identification number and a place for the voter's signature;

(b) The voter's precinct or voting district number; and

(c) The date of voting early in person.

4. When a voter is entitled to cast his ballot and has identified himself to the satisfaction of the deputy clerk for early voting, he is entitled to receive the appropriate ballot or ballots, but only for his own use at the polling place for early voting.

5. ~~[If the ballot is voted by punching a card, the deputy clerk for early voting shall:~~

~~(a) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the card;~~

~~(b) Direct the voter to the appropriate mechanical recording device for his form of ballot; and~~

~~(c) Allow the voter to place his voted ballot in the ballot box.~~

~~6.]~~ If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on each part of the voting receipt;

(c) Retain one part of the voting receipt for the election board and return the other part of the voting receipt to the voter; and

(d) Allow the voter to cast his vote.

~~[7.]~~ *6.* A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.

Sec. 14. NRS 293.359 is hereby amended to read as follows:

293.359 The ballot box for early voting in which voted ballots which are paper ballots ~~[or ballots which are voted by punching a card]~~ are deposited must have two numbered seals, and must be designed and constructed so that

the box can be sealed to detect any unauthorized opening of the box and that the ballot slot can be sealed to prevent any unauthorized deposit in the box. The seals for the boxes must be serially numbered for each election.

Sec. 15. NRS 293.3602 is hereby amended to read as follows:

293.3602 If paper ballots ~~[or ballots which are voted by punching a card]~~ are used during the period for early voting by personal appearance:

1. Each voting day during that period, the ballots voted at the permanent or temporary polling place may be removed from the ballot box and neatly stacked in a container that is sealed with a numbered seal after the ballots are stacked inside. The ballot box or sealed container must be delivered by an election board officer to the county clerk's office at the close of each voting day. The seal on the ballot box or container must indicate the number of voted ballots contained in that box or container for that day.

2. When the ballot box or container is delivered pursuant to subsection 1, the county clerk shall provide a new ballot box sealed in the manner prescribed in NRS 293.359.

3. At the close of each voting day before the fourth voting day before the last day to vote early, the county clerk may deliver all ballots voted to the ballot board for early voting. At the close of the fourth voting day before the last day to vote early and at the close of each of the 3 days thereafter, the county clerk shall deliver all ballots voted to the ballot board for early voting. At the close of the last voting day, the county clerk shall deliver to the ballot board for early voting:

(a) Each remaining ballot box and container that holds the ballots voted early by personal appearance;

(b) A voting roster of all persons who voted early by personal appearance; and

(c) Any list of registered voters used in conducting early voting.

4. Upon the receipt of ballots, the board shall:

(a) Remove all ballots from the ballot boxes and containers and sort the ballots by precinct or voting district;

(b) Count the number of ballots by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place all official ballots in the container provided to transport those items to a central counting place and seal the container with a numbered seal. The official statement of ballots must accompany the voted ballots to the central counting place.

5. The county clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsections 1 and 4 if those members do not interfere with the handling of the ballots.

Sec. 16. NRS 293.363 is hereby amended to read as follows:

293.363 When the polls are closed, the counting board shall prepare to count the ballots voted. The counting procedure must be public and continue without adjournment until completed. If the ballots are paper ballots , ~~[or~~

~~ballots which are voted by punching a card,]~~ the counting board shall prepare in the following manner:

1. The pollbooks must be compared and errors corrected until the books agree.

2. The container that holds the ballots, or the ballot box must be opened and the ballots contained therein counted by the counting board and opened far enough to ascertain whether each ballot is single. If two or more ballots are found folded together to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed. If, on comparison of the count with the pollbook, a majority of the inspectors are of the opinion that the ballots folded together were voted by one person, the ballots must be rejected and placed in an envelope, upon which must be written the reason for their rejection. The envelope must be signed by the counting board officers and placed in the container or ballot box after the count is completed.

3. If the ballots in the container or box are found to exceed in number the number of names on the pollbooks, the ballots must be replaced in the container or box, and a counting board officer, with his back turned to the container or box, shall draw out a number of ballots equal to the excess. The excess ballots must be marked on the back thereof with the words "Excess ballots not counted." The ballots when so marked must be immediately sealed in an envelope and returned to the county clerk with the other ballots rejected for any cause.

4. When it has been ascertained that the pollbook and the number of ballots agree with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy between the number of ballots and the number of voters, a record of the discrepancy must be made.

Sec. 17. NRS 293.367 is hereby amended to read as follows:

293.367 1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. The regulations for counting ballots must include provisions that:

(a) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

(b) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

(c) Only devices provided for in this chapter or chapter 293B of NRS may be used in marking ballots.

(d) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

(e) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it. Each election board officer shall sign the envelope.

~~[(f) In counties where mechanical voting systems are used whereby a vote is cast by punching a card, a superfluous punch into any card does not constitute grounds for rejection of the ballot unless the election board determines that the condition of the ballot justifies its exclusion pursuant to subsection 1.]~~

Sec. 18. NRS 293.3677 is hereby amended to read as follows:

293.3677 1. When counting a vote in an election, if more choices than permitted by the instructions for a ballot are marked for any office or question, the vote for that office or question may not be counted.

2. Except as otherwise provided in subsection 1, in an election in which a paper ballot is used whereby a vote is cast by placing a cross in the designated square on the paper ballot, a vote on the ballot must not be counted unless indicated by a cross in the designated square.

3. ~~[Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by punching a card:~~

~~(a) A chip on the card must be counted as a vote if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~(b) A writing or other mark on the card, including, without limitation, a cross, check, tear or scratch, may not be counted as a vote. The remaining votes on such a card must be counted unless the ballot is otherwise disqualified.~~

~~4.]~~ Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by darkening a designated space on the ballot:

(a) A vote must be counted if the designated space is darkened or there is a writing in the designated space, including, without limitation, a cross or check; and

(b) Except as otherwise provided in paragraph (a), a writing or other mark on the ballot, including, without limitation, a cross, check, tear or scratch may not be counted as a vote.

~~[5.]~~ *4.* The Secretary of State:

(a) May adopt regulations establishing additional uniform, statewide standards, not inconsistent with this section, for counting a vote cast by a method of voting described in subsection 2 ~~[, 3 or 4;]~~ *or 3;* and

(b) Shall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State that is not

described in subsection 2 ~~[, 3 or 4,]~~ *or 3,* including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

Sec. 19. NRS 293.373 is hereby amended to read as follows:

293.373 If paper ballots ~~[or ballots which are voted by punching a card]~~ are used:

1. After the tally lists have been completed, the voted ballots, rejected ballots, tally lists for regular ballots, tally list for rejected ballots, challenge list, stubs of used ballots, spoiled ballots and unused ballots must be sealed under cover by the counting board officers and addressed to the county clerk.

2. The other pollbooks, tally lists and election board register must be returned to the county clerk.

Sec. 20. NRS 293.385 is hereby amended to read as follows:

293.385 1. After 8 a.m. on election day, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw from the appropriate ballot boxes or containers all the ballots received the previous day and ascertain that each box or container has the required number of ballots according to the county clerk's absent voters' ballot record.

2. If any absent ballots are received by the county clerk on election day pursuant to NRS 293.316, the county clerk shall deposit the absent ballots in the appropriate ballot boxes or containers.

3. After 8 a.m. on election day, the appropriate board shall count in public the votes cast on the absent ballots.

4. If paper ballots are used, the results of the absent ballot vote in each precinct must be certified and submitted to the county clerk who shall have the results added to the regular votes of the precinct. ~~[If a mechanical voting system is used in which a voter casts his ballot by punching a card which is counted by a computer, the absent ballots may be counted with the regular votes of the precinct.]~~ The returns of absent ballots must be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of a voter's ballot. The county clerks shall develop a procedure to ensure that each ballot is kept secret.

5. Any person who disseminates to the public in any way information pertaining to the count of absent ballots before the polls close is guilty of a misdemeanor.

Sec. 21. NRS 293.517 is hereby amended to read as follows:

293.517 1. Any elector residing within the county may register:

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar or a voter registration agency, completing the application to register to vote, giving true and satisfactory answers to all questions relevant to his identity and right to vote, and providing proof of his residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; or

(d) At his residence with the assistance of a field registrar pursuant to NRS 293.5237.

➥ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him. If the applicant registers to vote pursuant to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. *For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.*

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name, and not under the given or first name or initials of his spouse.

4. An elector who is registered and changes his name must complete a new application to register to vote. He may obtain a new application:

(a) At the office of the county clerk or field registrar;

(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; or

(d) At any voter registration agency.

➥ If the elector fails to register under his new name, he may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. An elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of his application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote, he shall issue a voter registration card to the voter which contains:

(a) The name, address, political affiliation and precinct number of the voter;

(b) The date of issuance; and

(c) The signature of the county clerk.

Sec. 22. NRS 293.541 is hereby amended to read as follows:

293.541 1. The county clerk shall cancel the registration of a voter ~~[,]~~ if:

(a) After consultation with the district attorney, the district attorney determines that there is probable cause to believe that information in the registration concerning the identity or residence of the voter is fraudulent;

(b) The county clerk provides a notice as required pursuant to subsection 2 or executes an affidavit of cancellation pursuant to subsection 3; and

(c) The voter fails to present satisfactory proof of his identity and residence pursuant to subsection 2, 4 or 5.

2. Except as otherwise provided in subsection 3, the county clerk shall notify the voter by registered or certified mail, return receipt requested, of a determination made pursuant to subsection 1. The notice must set forth the grounds for cancellation. Unless the voter, within 15 days after the return receipt has been filed in the office of the county clerk, presents satisfactory proof of his identity and residence to the county clerk, the county clerk shall cancel his registration.

3. If insufficient time exists before a pending election to provide the notice required by subsection 2, the county clerk shall execute an affidavit of cancellation and file the affidavit of cancellation with the registrar of voters' register and:

(a) In counties where records of registration are not kept by computer, the county clerk shall attach a copy of the affidavit of cancellation in the election board register.

(b) In counties where records of registration are kept by computer, the county clerk shall have the affidavit of cancellation printed on the computer entry for the registration and add a copy of it to the election board register.

4. If a voter appears to vote at the election next following the date that an affidavit of cancellation was executed for the voter pursuant to this section, the voter must be allowed to vote only if he furnishes:

(a) Official identification which contains a photograph of himself, including, without limitation, a driver's license or other official document; and

(b) Satisfactory identification that contains proof of the address at which he actually resides and that address is consistent with the address listed on the election board register.

5. If a determination is made pursuant to subsection 1 concerning information in the registration to vote of a voter and an absent ballot or a ballot voted by a voter who resides in a mailing precinct is received from the voter, the ballot must be kept separate from other ballots and must not be counted unless the voter presents satisfactory proof to the county clerk of his identity and residence before such ballots are counted on election day.

6. For the purposes of this section, a voter registration car]d issued pursuant to NRS 293.517 does not provide proof of the:

(a) Address at which a person actually resides; or

(b) Residence or identity of a person.

Sec. 23. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 2, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note, as provided pursuant to NRS 218.443, 293.250, 293.481 or 293.482, for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218.443, 293.250, 293.481, 293.482 or 295.121, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218.443, 293.250, 293.252, 293.481, 293.482 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

3. Before the period for early voting ~~[, but not later than 10 days before]~~ *for* any election ~~[,]~~ *begins,* the county clerk shall cause to be mailed to each registered voter in the county a sample ballot for his precinct with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

4. Except as otherwise provided in subsection 5, a sample ballot required to be mailed pursuant to this section must:

(a) Be printed in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

5. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

6. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

7. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots mailed to that person from the county are in large type.

8. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his polling place and provide reasonable assistance to the voter in casting his vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

(a) The addresses of such centralized voting locations;

(b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his ballot at such a centralized voting location rather than at his regularly designated polling place.

9. The cost of mailing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 24. NRS 293B.032 is hereby amended to read as follows:

293B.032 "Mechanical recording device" means a device ~~[:~~

~~1. Which]~~ *which* mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on . ~~[; or~~

~~2. To which a list of offices and candidates and the statements of measures to be voted on may be affixed and into which a card may be inserted so that the votes cast for each candidate and for or against each measure may be indicated by punching the card with reference to the list.]~~

Sec. 25. NRS 293B.033 is hereby amended to read as follows:

293B.033 "Mechanical voting system" means a system of voting whereby a voter may cast his vote:

1. On a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or

2. By ~~[punching a card or]~~ marking a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer.

Sec. 26. NRS 293B.103 is hereby amended to read as follows:

293B.103 ~~[1. If a mechanical voting system is used whereby votes are cast by punching a card:~~

~~(a) The cards to be used must have two detachable stubs.~~

~~(b) Each of the stubs attached to a particular card must bear the number of that card.~~

~~(c) One of the stubs must be detached and given to the voter when he returns his voted ballot, and the other stub must be retained by the election board.~~

~~2.]~~ If a mechanical voting system is used whereby votes are directly recorded electronically:

~~[(a)]~~ *1.* A voting receipt which has two parts must be used.

~~[(b)]~~ *2.* Each part of the voting receipt must bear the same number for identification.

~~[(c)]~~ *3.* One part of the voting receipt must be given to the voter when he votes and the other part of the voting receipt must be retained by the election board.

Sec. 27. NRS 293B.155 is hereby amended to read as follows:

293B.155 1. The tests prescribed by NRS 293B.150 and 293B.165 must be conducted by processing a preaudited group of logic and accuracy test ballots so ~~[punched,]~~ voted or marked as to record a predetermined number of valid votes for each candidate and on each measure, and must include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the mechanical recording device or the automatic tabulating equipment and programs to reject those votes.

2. If any error is detected, the cause therefor must be ascertained and corrected and an errorless count must be made before the mechanical recording device or the automatic tabulating equipment and programs are approved.

3. When satisfied with the accuracy of the mechanical recording device or automatic tabulating equipment and computer program, the accuracy certification board and the county or city clerk shall date and sign all reports, and seal the program, if any, and the reports and all test material in an appropriate container. The container must be kept sealed by the clerk.

4. Except as otherwise provided in this subsection, the contents of such a sealed container are not subject to the inspection of anyone except in the case of a contested election, and then only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of that judge, body or board. For the period set forth in NRS 293.413 during which a candidate may file a statement of contest, the results of the test must be made available in the clerk's office for public inspection.

Sec. 28. NRS 293B.305 is hereby amended to read as follows:

293B.305 Unless a major political party allows a nonpartisan voter to vote for its candidates:

1. In a primary election, a member of the election board for a precinct shall issue each nonpartisan voter a ballot with a distinctive code and printed designation identifying it as a nonpartisan ballot.

2. If a mechanical voting system is used in a primary election whereby votes are directly recorded electronically, a member of the election board shall, in addition to the ballot described in subsection 1, issue the nonpartisan voter a voting receipt with a printed designation identifying it as a nonpartisan ballot.

3. The member of the election board shall:

(a) Direct the nonpartisan voter to a mechanical recording device containing a list of offices and candidates setting forth only the nonpartisan ballot; *or*

(b) Direct the nonpartisan voter to a mechanical recording device containing a list of offices and candidates arranged for a partisan ballot, instruct the voter to vote only the nonpartisan section of the list and advise the voter that any votes he may cast in the partisan section will not be counted . ~~[; or~~

~~(c) Issue a nonpartisan ballot attached to a sheet of foam plastic or similar backing material, a punching instrument, a sample nonpartisan ballot and an instruction sheet to the nonpartisan voter and instruct him to punch his ballot by reference to the sample ballot.]~~

Sec. 29. NRS 293B.330 is hereby amended to read as follows:

293B.330 1. Upon closing of the polls, the election board shall:

(a) Secure all mechanical recording devices against further voting.

(b) ~~[If a mechanical voting system is used whereby votes are cast by punching a card:~~

~~(1) Count the number of ballots in the ballot boxes.~~

~~(2) Account for all ballots on the statement of ballots.~~

~~(3) Place all official ballots, the ballot statement and any other records, reports and materials as directed by the county clerk into the container provided by him to transport those items to a central counting place and seal the container.~~

~~(c)]~~ If a mechanical voting system is used whereby votes are directly recorded electronically:

(1) Ensure that each mechanical recording device:

(I) Provides a record printed on paper of the total number of votes recorded on the device for each candidate and for or against each measure; and

(II) Transfers the ballots voted on that device to the storage device required pursuant to NRS 293B.084.

(2) Count the number of ballots voted at the polling place.

(3) Account for all ballots on the statement of ballots.

(4) Place all records printed on paper provided by the mechanical recording devices, all storage devices which store the ballots voted on the mechanical recording devices, and any other records, reports and materials as

directed by the county clerk into the container provided by him to transport those items to a central counting place and seal the container.

~~[(d)]~~ *(c)* Record the number of voters on a form provided by the county clerk.

2. If a difference exists between the number of voters and the number of ballots voted, the election board shall report the difference and any known reasons for the difference, in writing, to the county clerk.

3. After closing the polls, the election board shall:

(a) Compare the quantity of the supplies furnished by the county clerk with the inventory of those supplies; and

(b) Note any shortages.

4. The county clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsection 1 if those members do not interfere with the handling of the ballots.

Sec. 30. NRS 293B.365 is hereby amended to read as follows:

293B.365 The central ballot inspection board shall:

1. Receive the ballots in sealed containers.

2. Inspect the containers, record the number indicated on each container and its seal pursuant to NRS 293.462 and remove the ballots or storage devices which store the ballots voted on mechanical recording devices which directly record votes electronically.

3. Register the numbers of ballots by precinct.

4. Deliver any damaged ballots to the ballot duplicating board . ~~[, if the ballots were voted by punching a card.]~~

5. Receive duplicates of damaged ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct . ~~[, if the ballots were voted by punching a card.]~~

6. Place each damaged original ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct . ~~[, if the ballot was voted by punching a card.]~~

7. Reject any ballot that has been marked in a way that identifies the voter.

8. Place each rejected ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot . ~~[, if the ballot was voted by punching a card.]~~

Sec. 31. NRS 293B.375 is hereby amended to read as follows:

293B.375 ~~[If ballots which are voted by punching a card are used, the]~~ *The* ballot duplicating board shall:

1. Receive damaged ballots, including ballots which have been torn, bent or mutilated.

2. ~~[Receive cards with incompletely punched chips.~~

~~3.]~~ Prepare on a distinctly colored, serially numbered ballot marked "duplicate" an exact copy of each damaged ballot.

~~[4. In the case of a card with an incompletely punched chip:~~

~~(a) Remove the incompletely punched chip if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card; or~~

~~(b) Duplicate the card without punching the location of the incompletely punched chip if:~~

~~(1) The chip does not have at least one corner that is detached from the card; and~~

~~(2) The fibers of paper on no edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~5.~~ *3.* Record the serial number of the duplicate ballot on the damaged original ballot and return the damaged and duplicate ballots to the appropriate ballot inspection board.

~~[6.]~~ *4.* Hold aside the duplicated ballots for counting after all other ballots are counted if this procedure is directed by the county clerk.

Sec. 32. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election, unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....

State of Nevada
County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns

and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me

this ..... day of the month of ..... of the year .....

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[, without limitation,]~~ a check ~~[,]~~ which indicates the candidate's name and residential address ~~[.]~~ *, but not including a voter registration card issued pursuant to NRS 293.517.*

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the

candidate has designated in writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 33. NRS 293C.256 is hereby amended to read as follows:

293C.256 An absent ballot for a city election or a ballot for a city election voted by a voter who resides in a mailing precinct must be voted on a paper ballot . ~~[or a ballot which is voted by punching a card.]~~

Sec. 34. NRS 293C.292 is hereby amended to read as follows:

293C.292 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct or district upon the ground that he is not the person entitled to vote as claimed or has voted before at the same election; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that he does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";

(b) If the challenge is on the ground that he previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or

(c) If the challenge is on the ground that he is not the person he claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this election board register."

➥ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. If the challenged person refuses to execute the oath or affirmation so tendered, he must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged ....." opposite his name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) of subsection 2, the election board officers shall inform him that he is entitled to vote only in the manner prescribed in NRS 293C.295.

5. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (c) of subsection 2, the election board officers shall issue him a ballot.

6. If the challenge is based on the ground set forth in paragraph (a) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he furnishes satisfactory identification that contains proof of the address at which he actually resides. *For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.*

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless he:

(a) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he swears he is.

8. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

Sec. 35. NRS 293C.295 is hereby amended to read as follows:

293C.295 1. If a person is successfully challenged on the ground set forth in paragraph (a) of subsection 2 of NRS 293C.292 or if a person refuses to provide an affirmation pursuant to NRS 293C.525, the election board shall instruct the voter that he may vote only at the special polling place in the manner set forth in this section.

2. The city clerk shall maintain at least one special polling place at such locations as he deems necessary during each election. The ballots voted at the special polling place must be kept separate from the ballots of voters who have not been so challenged or who have provided an affirmation pursuant to NRS 293C.525 in:

(a) A special ballot box if the ballots are paper ballots *;* ~~[or ballots that are voted by punching a card;]~~ or

(b) A special sealed container if the ballots are ballots that are voted on a mechanical recording device which directly records the votes electronically.

3. A person who votes at a special polling place may place his vote only for the following offices and questions:

(a) All officers for whom all voters in the city may vote; and

(b) Questions that have been submitted to all voters of the city.

4. The ballots voted at the special polling place must be counted when other ballots are counted and:

(a) If the ballots are paper ballots , ~~[or ballots that are voted by punching a card,]~~ maintained in a separate ballot box; or

(b) If the ballots are ballots that are voted on a mechanical recording device that directly records the votes electronically, maintained in a separate sealed container,

➥ until any contest of election is resolved or the date for filing a contest of election has passed, whichever is later.

Sec. 35.5. *NRS 293C.315 is hereby amended to read as follows:*

293C.315 1. Any registered voter of this State who resides outside the continental United States may use a facsimile machine to request an absent ballot. *The registered voter shall state on the request whether he requests the city clerk to send the absent ballot by mail or facsimile machine and whether he will return the absent ballot to the city clerk by mail or facsimile machine.*

2. *If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the city clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:*

(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct in which he is voting and is the person whose name appears on the envelope;

(b) The signature of the registered voter;

(c) The address that the registered voter provided on his application for voter registration; and

(d) A statement that the voter has not applied and will not apply to any other city clerk for an absent ballot.

3. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by facsimile machine, he shall include with his completed absent ballot the following:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is

_____

(Street Address) (City) (ZIP Code)

My current mailing address is

_____

My e-mail address is _____.

My facsimile transmission number is _____.

I am a resident of _____ County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this day of , 20 .

(Signed)

_____

voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.

4. The city clerk *, if so requested pursuant to subsection 1,* shall use a facsimile machine to send an absent ballot *and the oath, as required pursuant to subsection 3,* to the registered voter.

~~[3. The registered voter shall mail his absent ballot to the city clerk.~~

~~4.]~~ *5. Each city clerk shall ensure the secrecy of absentee ballots that are submitted by facsimile machine.*

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 36. NRS 293C.322 is hereby amended to read as follows:

293C.322 1. Except as otherwise provided in subsection 2, if the request for an absent ballot is made by mail or facsimile machine, the city clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail *, unless otherwise requested pursuant to NRS 293C.315,* if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail *, unless otherwise requested pursuant to NRS 293C.315,* if the absent voter is in a foreign country but not on a military base:

(a) ~~[Except as otherwise provided in paragraph (b):~~

~~(1)]~~ An absent ballot;

~~[(2)]~~ *(b)* A return envelope;

~~[(3)]~~ *(c)* Supplies for marking the ballot;

~~[(4)]~~ *(d)* An envelope or similar device into which the ballot is inserted to ensure its secrecy; ~~[and]~~

~~[(5) Instructions.~~

~~(b) In those cities using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(1) A card attached to a sheet of foam plastic or similar backing material;~~

~~(2) A return envelope;~~

~~(3) A punching instrument;~~

~~(4) A sample ballot;~~

~~(5) An envelope or similar device into which the card is inserted to ensure its secrecy; and~~

~~(6)]~~ *(e)* *An identification envelope, if applicable pursuant to NRS 293C.315; and*

(f) Instructions.

2. If the city clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the city clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter shall mail his absent ballot to the city clerk.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2.

5. Before depositing a ballot with the United States Postal Service or sending a ballot by facsimile machine, the city clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

Sec. 36.5. *NRS 293C.325 is hereby amended to read as follows:*

293C.325 1. Except as otherwise provided in subsections 2 and 3, when an absent ballot is returned by a registered voter to the city clerk through the mails ~~[,]~~ *or facsimile* and record thereof is made in the absent ballot record book, the city clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If the city clerk has appointed an absent ballot central counting board, the city clerk shall, upon receipt of each absent voter's ballot, make a record of

the return and check the signature on the return envelope *or facsimile* against the original signature of the voter on the county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box. At the end of each day before election day, the city clerk may remove the ballots from each ballot box and neatly stack the ballots in a container. Except as otherwise provided in subsection 3, on election day the city clerk shall deliver the ballot box and, if applicable, each container to the absent ballot counting board to be counted.

3. If the city uses a mechanical voting system, the city clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope *or facsimile* against the original signature of the *voter on the* county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the city clerk at all times. At the end of each day before election day, the city clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Except as otherwise provided in this subsection, on election day the city clerk shall deliver the ballot box and each container, if applicable, to the central counting place. If the city uses a mechanical voting system and the city clerk has appointed an absent ballot central counting board, the city clerk may, not earlier than 4 working days before the election, deliver the ballots to the absent ballot central counting board to be processed and prepared for tabulation pursuant to the procedures established by the Secretary of State.

Sec. 37. NRS 293C.330 is hereby amended to read as follows:

293C.330 1. Except as otherwise provided in NRS 293C.315 and subsection 2 of NRS 293C.322 and any regulations adopted pursuant thereto, when an absent voter receives his ballot, he must mark and fold it ~~[, if it is a paper ballot, or punch it, if the ballot is voted by punching a card,]~~ in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:

(a) The office of the city clerk, he must mark ~~[or punch]~~ the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the city clerk.

(b) A polling place, including, without limitation, a polling place for early voting, he must surrender the absent ballot and provide satisfactory identification before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."

3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the city clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the

absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

(a) Provides satisfactory identification;

(b) Is a registered voter who is otherwise entitled to vote; and

(c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. Except as otherwise provided in NRS 293C.317, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of his family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the city clerk that he is a member of the family of the voter who requested the absent ballot and that the voter requested that he return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 37.5. *NRS 293C.332 is hereby amended to read as follows:*

293C.332 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the city clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported pursuant to NRS 293C.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope ~~[,]~~ *or facsimile,* must be called and checked as if the voter were voting in person;

2. The signature on the back of the return envelope *or on the facsimile* must be compared with that on the original application to register to vote;

3. If the board determines that the absent voter is entitled to cast his ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot and, if the numbers are the same, the ballot deposited in the regular ballot box; and

4. The election board officers shall mark in the pollbook opposite the name of the voter the word "Voted."

Sec. 38. NRS 293C.347 is hereby amended to read as follows:

293C.347 1. The city clerk shall:

(a) Make certain of the names and addresses of all voters registered to vote in mailing precincts and absent ballot mailing precincts;

(b) Enroll the name and address of each voter found eligible to vote in those precincts in the mailing precinct record book;

(c) Mark the number of the ballot on the return envelope; and

(d) Mail the ballot to the registered voter.

2. ~~[Except as otherwise provided in subsection 3, the]~~ *The* ballot must be accompanied by:

(a) Supplies for marking the ballot;

(b) A return envelope;

(c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;

(d) A sample ballot; and

(e) Instructions regarding the manner of marking and returning the ballot.

~~[3. In those cities using a mechanical voting system whereby a vote is cast by punching a card, the ballot must be accompanied by:~~

~~(a) A sheet of foam plastic or similar backing material attached to the card;~~

~~(b) A punching instrument;~~

~~(c) A return envelope;~~

~~(d) An envelope or similar device into which the card is inserted to ensure its secrecy;~~

~~(e) A sample ballot; and~~

~~(f) Instructions concerning the manner of punching and returning the card.]~~

Sec. 39. NRS 293C.350 is hereby amended to read as follows:

293C.350 Upon receipt of a mailing ballot from the city clerk, the registered voter must:

1. ~~[Except as otherwise provided in subsection 2:~~

~~(a)]~~ Immediately after opening the envelope, mark and fold the ballot;

~~[(b)]~~ *2.* Place the ballot in the return envelope;

~~[(c)]~~ *3.* Affix his signature on the back of the envelope; and

~~[(d)]~~ *4.* Mail or deliver the envelope to the city clerk.

~~[2. In those cities using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(a) Immediately after opening the envelope, punch the card;~~

~~(b) Place the unfolded card in the return envelope;~~

~~(c) Affix his signature on the back of the envelope; and~~

~~(d) Mail or deliver the envelope to the city clerk.]~~

Sec. 40. NRS 293C.356 is hereby amended to read as follows:

293C.356 1. If a request is made to vote early by a registered voter in person, the city clerk shall issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of the clerk's office and returned to the clerk. If the ballot is a paper ballot , ~~[or a ballot which is voted by punching a card,]~~ the clerk shall follow the same procedure as in the case of absent ballots received by mail.

2. On the dates for early voting prescribed in NRS 293C.3568, each city clerk shall provide a voting booth, with suitable equipment for voting, on the premises of his office for use by registered voters who are issued ballots for early voting in accordance with this section.

Sec. 41. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; and

(c) Verify the signature of the voter against that contained on the original application to register to vote or *a* facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification.

2. The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

(a) The voter's name, the address where he is registered to vote, his voter identification number and a place for the voter's signature;

(b) The voter's precinct or voting district number; and

(c) The date of voting early in person.

4. When a voter is entitled to cast his ballot and has identified himself to the satisfaction of the deputy clerk for early voting, he is entitled to receive the appropriate ballot or ballots, but only for his own use at the polling place for early voting.

5. ~~[If the ballot is voted by punching a card, the deputy clerk for early voting shall:~~

~~(a) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the card;~~

~~(b) Direct the voter to the appropriate mechanical recording device for his form of ballot; and~~

~~(c) Allow the voter to place his voted ballot in the ballot box.~~

~~6.]~~ If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on each part of the voting receipt;

(c) Retain one part of the voting receipt for the election board and return the other part of the voting receipt to the voter; and

(d) Allow the voter to cast his vote.

~~[7.]~~ *6.* A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.

Sec. 42. NRS 293C.359 is hereby amended to read as follows:

293C.359 The ballot box for early voting in which voted ballots which are paper ballots ~~[or ballots which are voted by punching a card]~~ are deposited must have two numbered seals, and must be designed and constructed so that the box can be sealed to detect any unauthorized opening of the box and that the ballot slot can be sealed to prevent any unauthorized deposit in the box. The seals for the boxes must be serially numbered for each election.

Sec. 43. NRS 293C.3602 is hereby amended to read as follows:

293C.3602 If paper ballots ~~[or ballots which are voted by punching a card]~~ are used during the period for early voting by personal appearance:

1. Each voting day during that period, the ballots voted at the permanent or temporary polling place may be removed from the ballot box and neatly stacked in a container that is sealed with a numbered seal after the ballots are stacked inside. The ballot box or sealed container must be delivered by an election board officer to the city clerk's office at the close of each voting day. The seal on the ballot box or container must indicate the number of voted ballots contained in that box or container for that day.

2. When the ballot box or container is delivered pursuant to subsection 1, the city clerk shall provide a new ballot box sealed in the manner prescribed in NRS 293C.359.

3. At the close of each voting day before the fourth voting day before the last day to vote early, the city clerk may deliver all ballots voted to the ballot board for early voting. At the close of the fourth voting day before the last day to vote early and at the close of each of the 3 days thereafter, the city clerk shall deliver all ballots voted to the ballot board for early voting. At the close of the last voting day, the city clerk shall deliver to the ballot board for early voting:

(a) Each remaining ballot box and container that holds the ballots voted early by personal appearance;

(b) A voting roster of all persons who voted early by personal appearance; and

(c) Any list of registered voters used in conducting early voting.

4. Upon the receipt of *the* ballots, the board shall:

(a) Remove all ballots from the ballot boxes and containers and sort the ballots by precinct or voting district;

(b) Count the number of ballots by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place all official ballots in the container provided to transport those items to a central counting place and seal the container with a numbered seal. The official statement of ballots must accompany the voted ballots to the central counting place.

5. The city clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsections 1 and 4 if those members do not interfere with the handling of the ballots.

Sec. 44. NRS 293C.362 is hereby amended to read as follows:

293C.362 When the polls are closed, the counting board shall prepare to count the ballots voted. The counting procedure must be public and continue without adjournment until completed. If the ballots are paper ballots , ~~[or ballots that are voted by punching a card,]~~ the counting board shall prepare in the following manner:

1. The pollbooks must be compared and errors corrected until the books agree.

2. The container that holds the ballots ~~[,]~~ or the ballot box must be opened and the ballots contained therein counted by the counting board and opened far enough to determine whether each ballot is single. If two or more

ballots are found folded together to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed. If, on comparison of the count with the pollbook, a majority of the inspectors are of the opinion that the ballots folded together were voted by one person, the ballots must be rejected and placed in an envelope, upon which must be written the reason for their rejection. The envelope must be signed by the counting board officers and placed in the container or ballot box after the count is completed.

3. If the ballots in the container or box are found to exceed the number of names on the pollbooks, the ballots must be replaced in the container or box and a counting board officer shall, with his back turned to the container or box, draw out a number of ballots equal to the excess. The excess ballots must be marked on the back thereof with the words "Excess ballots not counted." The ballots when so marked must be immediately sealed in an envelope and returned to the city clerk with the other ballots rejected for any cause.

4. When it has been determined that the pollbook and the number of ballots agree with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy between the number of ballots and the number of voters, a record of the discrepancy must be made.

Sec. 45. NRS 293C.367 is hereby amended to read as follows:

293C.367 1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. Regulations for counting ballots must include provisions that:

(a) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

(b) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

(c) Only devices provided for in this chapter, chapter 293 or 293B of NRS may be used in marking ballots.

(d) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

(e) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it. Each election board officer shall sign the envelope.

~~[(f) In cities where mechanical voting systems are used whereby a vote is cast by punching a card, a superfluous punch into any card does not~~

~~constitute grounds for rejection of the ballot unless the election board determines that the condition of the ballot justifies its exclusion pursuant to subsection 1.]~~

Sec. 46. NRS 293C.369 is hereby amended to read as follows:

293C.369 1. When counting a vote in an election, if more choices than permitted by the instructions for a ballot are marked for any office or question, the vote for that office or question may not be counted.

2. Except as otherwise provided in subsection 1, in an election in which a paper ballot is used whereby a vote is cast by placing a cross in the designated square on the paper ballot, a cross in the designated square must be counted as a vote.

3. ~~[Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by punching a card:~~

~~(a) A chip on the card must be counted as a vote if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~(b) A writing or other mark on the card, including, without limitation, a cross, check, tear or scratch, may not be counted as a vote. The remaining votes on such a card must be counted unless the ballot is otherwise disqualified.~~

~~4.]~~ Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by darkening a designated space on the ballot:

(a) A vote must be counted if the designated space is darkened or there is a writing in the designated space, including, without limitation, a cross or check; and

(b) Except as otherwise provided in paragraph (a), a writing or other mark on the ballot, including, without limitation, a cross, check, tear or scratch may not be counted as a vote.

~~[5.]~~ *4.* The Secretary of State:

(a) May adopt regulations establishing additional uniform, statewide standards, not inconsistent with this section, for counting a vote cast by a method of voting described in subsection 2 ~~[, 3 or 4;]~~ *or 3;* and

(b) Shall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State that is not described in subsection 2 ~~[, 3 or 4,]~~ *or 3,* including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

Sec. 47. NRS 293C.375 is hereby amended to read as follows:

293C.375 If paper ballots ~~[or ballots which are voted by punching a card]~~ are used:

1. After the tally lists have been completed, the voted ballots, rejected ballots, tally lists for regular ballots, tally list for rejected ballots, challenge

list, stubs of used ballots, spoiled ballots and unused ballots must be sealed under cover by the counting board officers and addressed to the city clerk.

2. The other pollbooks, tally lists and *the* election board register must be returned to the city clerk.

Sec. 48. NRS 293C.385 is hereby amended to read as follows:

293C.385 1. After 8 a.m. on election day, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw from the appropriate ballot boxes or containers all the ballots received the previous day and determine whether each box or container has the required number of ballots according to the city clerk's absent voters' ballot record.

2. If any absent ballots are received by the city clerk on election day pursuant to NRS 293C.317, the city clerk shall deposit the absent ballots in the appropriate ballot boxes or containers.

3. After 8 a.m. on election day, the appropriate board shall count in public the votes cast on the absent ballots.

4. If paper ballots are used, the results of the absent ballot vote in each precinct must be certified and submitted to the city clerk, who shall have the results added to the regular votes of the precinct. ~~[If a mechanical voting system is used in which a voter casts his ballot by punching a card that is counted by a computer, the absent ballots may be counted with the regular votes of the precinct.]~~ The returns of absent ballots must be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of a voter's ballot. The city clerks shall develop a procedure to ensure that each ballot is kept secret.

5. Any person who disseminates to the public information relating to the count of absent ballots before the polls close is guilty of a misdemeanor.

Sec. 49. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. Before the period for early voting ~~[, but not later than 10 days before]~~ *for* ~~[an]~~ *any* election ~~[,]~~ *begins,* the city clerk shall cause to be mailed to each registered voter in the city a sample ballot for his precinct , with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

(a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

2. Except as otherwise provided in subsection 3, a sample ballot required to be mailed pursuant to this section must:

(a) Be printed in at least 12-point type;

(b) Include the fiscal note and explanation, as required pursuant to NRS 293.481 or 293.482, of each citywide measure and advisory question, including arguments for and against it; and

(c) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

3. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

4. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

5. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots mailed to that person from the city are in large type.

6. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his polling place and provide reasonable assistance to the voter in casting his vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

(a) The addresses of such centralized voting locations;

(b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his ballot at such a centralized voting location rather than at his regularly designated polling place.

7. The cost of mailing sample ballots for a city election must be borne by the city holding the election.

Sec. 50. NRS 293C.620 is hereby amended to read as follows:

293C.620 1. At each election a member of the election board for a precinct shall issue each voter a ballot.

2. If a mechanical voting system is used in a primary city election whereby votes are directly recorded electronically, a member of the election board shall, in addition to the ballot described in subsection 1, issue the voter a voting receipt.

3. The member of the election board shall ~~[:~~

~~(a) Direct]~~ *direct* the voter to a mechanical recording device containing a list of offices and candidates . ~~[; or~~

~~(b) Issue a ballot attached to a sheet of foam plastic or similar backing material, a punching instrument, a sample ballot and an instruction sheet to~~

~~the voter and instruct him to punch his ballot by reference to the sample ballot.]~~

Sec. 51. NRS 293C.630 is hereby amended to read as follows:

293C.630 1. Upon closing of the polls, the election board shall:

(a) Secure all mechanical recording devices against further voting.

(b) ~~[If a mechanical voting system is used whereby votes are cast by punching a card:~~

~~(1) Count the number of ballots in the ballot boxes.~~

~~(2) Account for all ballots on the statement of ballots.~~

~~(3) Place all official ballots, the ballot statement and any other records, reports and materials as directed by the city clerk into the container provided by him to transport those items to a central counting place and seal the container.~~

~~(c)]~~ If a mechanical voting system is used whereby votes are directly recorded electronically:

(1) Ensure that each mechanical recording device:

(I) Provides a record printed on paper of the total number of votes recorded on the device for each candidate and for or against each measure; and

(II) Transfers the ballots voted on that device to the storage device required pursuant to NRS 293B.084.

(2) Count the number of ballots voted at the polling place.

(3) Account for all ballots on the statement of ballots.

(4) Place all records printed on paper provided by the mechanical recording devices, all storage devices which store the ballots voted on the mechanical recording devices, and any other records, reports and materials as directed by the city clerk into the container provided by him to transport those items to a central counting place and seal the container.

~~[(d)]~~ *(c)* Record the number of voters on a form provided by the city clerk.

2. If a difference exists between the number of voters and the number of ballots voted, the election board shall report the difference and any known reasons for the difference, in writing, to the city clerk.

3. After closing the polls, the election board shall:

(a) Compare the quantity of the supplies furnished by the city clerk with the inventory of those supplies; and

(b) Note any shortages.

4. The city clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsection 1 if those members do not interfere with the handling of the ballots.

Sec. 52. NRS 293C.645 is hereby amended to read as follows:

293C.645 The central ballot inspection board shall:

1. Receive the ballots in sealed containers.

2. Inspect the containers, record the number indicated on each container and its seal pursuant to NRS 293.462 and remove the ballots or storage

devices that store the ballots voted on mechanical recording devices that directly record votes electronically.

3. Register the numbers of ballots by precinct.

4. Deliver any damaged ballots to the ballot duplicating board . ~~[, if the ballots were voted by punching a card.]~~

5. Receive duplicates of damaged ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct . ~~[, if the ballots were voted by punching a card.]~~

6. Place each damaged original ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct . ~~[, if the ballot was voted by punching a card.]~~

7. Reject any ballot that has been marked in a way that identifies the voter.

8. Place each rejected ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot . ~~[, if the ballot was voted by punching a card.]~~

Sec. 53. NRS 293C.655 is hereby amended to read as follows:

293C.655 ~~[If ballots that are voted by punching a card are used, the]~~ *The* ballot duplicating board shall:

1. Receive damaged ballots, including ballots that have been torn, bent or mutilated.

2. ~~[Receive cards with incompletely punched chips.~~

~~3.]~~ Prepare on a distinctly colored, serially numbered ballot marked "duplicate" an exact copy of each damaged ballot.

~~[4. In the case of a card with an incompletely punched chip:~~

~~(a) Remove the incompletely punched chip if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card; or~~

~~(b) Duplicate the card without punching the location of the incompletely punched chip if:~~

~~(1) The chip does not have at least one corner that is detached from the card; and~~

~~(2) The fibers of paper on no edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~5.]~~ *3.* Record the serial number of the duplicate ballot on the damaged original ballot and return the damaged and duplicate ballots to the appropriate ballot inspection board.

~~[6.]~~ *4.* Hold aside the duplicated ballots for counting after all other ballots are counted if this procedure is directed by the city clerk.

Sec. 54. NRS 294A.005 is hereby amended to read as follows:

294A.005 "Candidate" means any person:

1. Who files a declaration of candidacy;

2. Who files an acceptance of candidacy;

3. Whose name appears on an official ballot at any election; or

4. Who has received contributions in excess of $100 ~~[.]~~ *, regardless of whether:*

(a) The person has filed a declaration of candidacy or an acceptance of candidacy; or

(b) The name of the person appears on an official ballot at any election.

Sec. 55. NRS 295.056 is hereby amended to read as follows:

295.056 1. Before a petition for initiative or referendum is filed with the Secretary of State, the petitioners must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within his county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than the second Tuesday in November of an even-numbered year.

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in June of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in May of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time. *If documents concerning the same petition are submitted for verification to more than one county clerk, the documents must be submitted to each county clerk on the same day. At the time that the petition is submitted to a county clerk for verification, the petitioners may designate a contact person who is authorized by the petitioners to address questions or issues relating to the petition.*

Sec. 56. NRS 217.468 is hereby amended to read as follows:

217.468 1. Except as otherwise provided in subsections 2 and 3, the Secretary of State shall cancel the fictitious address of a participant 4 years after the date on which the Secretary of State approved the application.

2. The Secretary of State shall not cancel the fictitious address of a participant if, before the fictitious address of the participant is cancelled, the participant shows to the satisfaction of the Secretary of State that the participant remains in imminent danger of becoming a victim of domestic violence, sexual assault or stalking.

3. The Secretary of State may cancel the fictitious address of a participant at any time if:

(a) The participant changes his confidential address from the one listed in the application and fails to notify the Secretary of State within 48 hours after the change of address; ~~[or]~~

(b) The Secretary of State determines that false or incorrect information was knowingly provided in the application ~~[.]~~ *; or*

(c) The participant files a declaration or acceptance of candidacy pursuant to NRS 293.177 or 293C.185.

Sec. 57. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 62I.050, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 ~~[, 213.153 and 293B.210,]~~ *and 213.153,*

➥ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board.

Sec. 58. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 62I.025, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 ~~[, 213.153 and 293B.210,]~~ *and 213.153,*

➥ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board.

Sec. 59. NRS 293B.160 and 293B.210 are hereby repealed.

Sec. 60. 1. This section, sections 1 to 57, inclusive, and 59 of this act become effective upon passage and approval.

2. Section 57 of this act expires by limitation upon enactment of the Interstate Compact for Juveniles into law by the 35th jurisdiction.

3. Section 58 of this act becomes effective upon enactment of the Interstate Compact for Juveniles into law by the 35th jurisdiction.

TEXT OF REPEALED SECTIONS

293B.160 Test program and card deck to be used for certain mechanical voting systems at election. If a mechanical voting system is used whereby votes are cast by punching a card, the computer program and the program card deck used for the test prescribed by NRS 293B.150 must be used to count those ballots which were voted by punching a card for the election.

293B.210 Clerk to furnish lists of candidates and measures to be voted on at election; Secretary of State to provide to or reimburse county for cards used in elections.

1. If a mechanical voting system is used whereby a vote is cast by punching a card, the county or city clerk shall furnish sufficient lists of offices and candidates and the statements of measures to be voted on for the mechanical recording devices used at any election.

2. The Secretary of State shall provide to or reimburse each county for all cards used in each primary or general election. Any reimbursement must be paid from the Reserve for Statutory Contingency Account upon

recommendation by the Secretary of State and approval by the State Board of Examiners.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 521.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 784.

"SUMMARY—Revises provisions relating to the crimes of fraud and racketeering. (BDR 15-500)"

"AN ACT relating to crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; *establishing the crime of participating in an organized retail theft ring;* revising provisions relating to the crime of racketeering; *authorizing the Attorney General to institute certain civil proceedings to enforce the provisions relating to deceptive trade practices; providing for the sharing of information and intelligence between the Attorney General and a state or federal investigative agency under certain circumstances; authorizing the Attorney General to seek certain equitable relief for violations of law relating to unfair trade practices; revising certain provisions relating to unfair trade practices;* providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) Section ~~[2]~~ *3* of this bill, which is patterned in part after existing securities laws, provides that a person commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions within 4 years after the completion of the first transaction by engaging in an act, practice or course of business or employing a device, scheme or artifice to defraud another person by making an untrue statement of fact or not stating a material fact necessary in light of the circumstances which: (1) the person knows to be false; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact. (NRS 90.570) Section 1 of this bill imposes an additional penalty against a person who commits the new crime established by section ~~[2]~~ *3* against a person who is 60 years of age or older or a vulnerable person. (NRS 193.167) Section ~~[3]~~ *8* of this bill revises the definition of a crime related to racketeering to include the new crime established by section ~~[2.]~~ *3.* Section ~~[5]~~ *10* of this bill provides that a prosecution of the new crime established by section ~~[2]~~ *3* must be commenced within 4 years after the crime is committed.

Existing law establishes various crimes relating to racketeering activity. (NRS 207.400) Section ~~[4]~~ 9 of this bill prohibits a person from transporting property, attempting to transport property or providing property to another person knowing that the other person intends to use the property to further racketeering activity. In addition, section ~~[4]~~ 9 prohibits a person who knows that property represents proceeds of any unlawful activity to conduct or attempt to conduct any transaction involving the property with the intent to further racketeering activity or with the knowledge that the transaction conceals the location, source, ownership or control of the property. (NRS 207.400)

Section 4 of this bill provides that a person who participates in an organized retail theft ring is guilty of a category B felony, punishable by imprisonment for: (1) a minimum term of not less than 1 year and a maximum term of not more than 10 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is at least $2,500 but less than $10,000; or (2) a minimum term of not less than 2 years and a maximum term of not more than 15 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is $10,000 or more.

Existing law authorizes the Attorney General to institute criminal proceedings to enforce the provisions of law regarding deceptive trade practices. (NRS 598.0963) Section 11 of this bill provides that the Attorney General may also institute civil proceedings to enforce those provisions.

Existing law authorizes the disclosure to the Attorney General of certain information relating to criminal investigations. (NRS 598.098, 598A.080, 598A.110) Sections 12, 15 and 17 of this bill authorize further sharing of information between the Attorney General and state and federal investigative agencies under specified conditions.

Existing law authorizes the Attorney General to institute proceedings against alleged violators of the laws concerning unfair trade practices for civil and criminal penalties. (NRS 598A.070, 598A.090) Sections 14 and 16 of this bill authorize the Attorney General to seek other relief, including, without limitation, restitution and disgorgement.

Existing law authorizes the Attorney General to bring a civil action for any violation of the provisions of law regarding unfair trade practices and to recover the damages sustained by the person on whose behalf the Attorney General brings the action. (NRS 598A.160) Section 18 of this bill allows the Attorney General to recover treble the damages sustained by the person on whose behalf the Attorney General brings the action.

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

Section 1. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;
(b) Attempted murder;
(c) Assault;
(d) Battery;
(e) Kidnapping;
(f) Robbery;
(g) Sexual assault;
(h) Embezzlement of money or property of a value of $250 or more;
(i) Obtaining money or property of a value of $250 or more by false pretenses; or
(j) Taking money or property from the person of another,

➥ against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS *or section* ~~*[2]*~~ *3 of this act* against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the criminal violation. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the criminal violation.

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

4. As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 2. Chapter 205 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 3 and 4 of this act.*

Sec. 3. 1. A person shall not, in the course of an enterprise or occupation, knowingly and with the intent to defraud, engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that:

(a) The person knows to be false;
(b) The person intends another to rely on; and
(c) Results in a loss to any person who relied on the false representation or omission,

➥ *in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents*

within 4 years and in which the aggregate loss or intended loss is more than $250.

2. Each act which violates subsection 1 constitutes a separate offense.

3. A person who violates subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

Sec. 4. 1. A person who participates in an organized retail theft ring that has committed three or more thefts of retail merchandise in this State during a period of 90 days is guilty of a category B felony and shall be punished by imprisonment in the state prison for:

(a) If the aggregated value of the property involved in all thefts committed by the organized retail theft ring in this State during that 90-day period is at least $2,500 but less than $10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

(b) If the aggregated value of the property involved in all thefts committed during that 90-day period is $10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than $20,000.

2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.

3. For the purposes of this section, in determining the aggregated value of the property involved in all thefts committed by an organized retail theft ring in this State during a period of 90 days:

(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property which is obtained; and

(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.

4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.

5. As used in this section:

(a) "Merchant" has the meaning ascribed to it in NRS 597.850.

(b) "Organized retail theft ring" means three or more persons who associate for the purpose of engaging, and one or more of whom engage, in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.

Sec. 5. *NRS 205.0821 is hereby amended to read as follows:*

205.0821 As used in NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act,* unless the context otherwise requires, the words and terms defined in NRS 205.0822 to 205.0831, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. *NRS 205.0833 is hereby amended to read as follows:*

205.0833 1. Conduct denominated theft in NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* constitutes a single offense embracing the separate offenses commonly known as larceny, receiving or possessing stolen property, embezzlement, obtaining property by false pretenses, issuing a check without sufficient money or credit, and other similar offenses.

2. A criminal charge of theft may be supported by evidence that an act was committed in any manner that constitutes theft pursuant to NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* notwithstanding the specification of a different manner in the indictment or information, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if it determines that, in a specific case, strict application of the provisions of this subsection would result in prejudice to the defense by lack of fair notice or by surprise.

Sec. 7. *NRS 205.0835 is hereby amended to read as follows:*

205.0835 1. Unless a greater penalty is imposed by a specific statute ~~[,]~~ *and unless the provisions of section 4 of this act apply under the circumstances,* a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* shall be punished pursuant to the provisions of this section.

2. If the value of the property or services involved in the theft is less than $250, the person who committed the theft is guilty of a misdemeanor.

3. If the value of the property or services involved in the theft is $250 or more but less than $2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. If the value of the property or services involved in the theft is $2,500 or more, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

5. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

~~[Sec. 3.]~~ *Sec. 8.* NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;

2. Manslaughter, except vehicular manslaughter as described in NRS 484.3775;

3. Mayhem;

4. Battery which is punished as a felony;

5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;
14. Any violation of NRS 199.280 which is punished as a felony;
15. Burglary;
16. Grand larceny;
17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or 453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
24. Receiving, possessing or withholding stolen goods valued at $250 or more;
25. Embezzlement of money or property valued at $250 or more;
26. Obtaining possession of money or property valued at $250 or more, or obtaining a signature by means of false pretenses;
27. Perjury or subornation of perjury;
28. Offering false evidence;
29. Any violation of NRS 201.300 or 201.360;
30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;
31. Any violation of NRS 205.506, 205.920 or 205.930; ~~[or]~~
32. Any violation of NRS 202.445 or 202.446 ~~[.]~~ *; or*
33. Any violation of section ~~[2]~~ 3 of this act.

~~[Sec. 4.]~~ *Sec. 9.* NRS 207.400 is hereby amended to read as follows:

207.400 1. It is unlawful for a person:

(a) Who has with criminal intent received any proceeds derived, directly or indirectly, from racketeering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of:

(1) Any title to or any right, interest or equity in real property; or

(2) Any interest in or the establishment or operation of any enterprise.

(b) Through racketeering activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(c) Who is employed by or associated with any enterprise to conduct or participate, directly or indirectly, in:

(1) The affairs of the enterprise through racketeering activity; or

(2) Racketeering activity through the affairs of the enterprise.

(d) Intentionally to organize, manage, direct, supervise or finance a criminal syndicate.

(e) Knowingly to incite or induce others to engage in violence or intimidation to promote or further the criminal objectives of the criminal syndicate.

(f) To furnish advice, assistance or direction in the conduct, financing or management of the affairs of the criminal syndicate with the intent to promote or further the criminal objectives of the syndicate.

(g) Intentionally to promote or further the criminal objectives of a criminal syndicate by inducing the commission of an act or the omission of an act by a public officer or employee which violates his official duty.

(h) *To transport property, to attempt to transport property or to provide property to another person knowing that the other person intends to use the property to further racketeering activity.*

(i) Who knows that property represents proceeds of, or is directly or indirectly derived from, any unlawful activity to conduct or attempt to conduct any transaction involving the property:

(1) With the intent to further racketeering activity; or

(2) With the knowledge that the transaction conceals the location, source, ownership or control of the property.

(j) To conspire to violate any of the provisions of this section.

2. A person who violates this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $25,000.

3. As used in this section, "unlawful activity" has the meaning ascribed to it in NRS 207.195.

~~[Sec. 5.]~~ *Sec. 10.* NRS 171.085 is hereby amended to read as follows:

171.085 Except as otherwise provided in NRS 171.083, 171.084 and 171.095, an indictment for:

1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 , ~~[or]~~ a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 *or a violation of section ~~[2]~~ 3 of this act* must be found, or an information or complaint filed, within 4 years after the commission of the offense.

2. Any felony other than murder, theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 or a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 must be found, or an

information or complaint filed, within 3 years after the commission of the offense.

Sec. 11. *NRS 598.0963 is hereby amended to read as follows:*

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

2. The Attorney General may institute *civil or* criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive. The Attorney General is not required to obtain leave of the court before instituting *civil or* criminal proceedings pursuant to this subsection.

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

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 12. *NRS 598.098 is hereby amended to read as follows:*

598.098 1. NRS 598.0903 to 598.0999, inclusive, do not prohibit the Commissioner or Director from disclosing to the Attorney General, any district attorney or any law enforcement officer the fact that a crime has been committed by any person, if this fact has become known as a result of any investigation conducted pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive.

2. Subject to the provisions of subsection 2 of NRS 598.0979 and except as otherwise provided in this section, the Commissioner or Director may not make public the name of any person alleged to have committed a deceptive trade practice. This subsection does not:

(a) Prevent the Commissioner or Director from issuing public statements describing or warning of any course of conduct which constitutes a deceptive trade practice.

(b) Apply to a person who is subject to an order issued pursuant to subsection 5 of NRS 598.0971.

3. Upon request, the Commissioner may:

(a) Disclose the number of written complaints received by the Commissioner during the current and immediately preceding 3 fiscal years.

A disclosure made pursuant to this paragraph must include the disposition of the complaint disclosed.

(b) Make public any order to cease and desist issued pursuant to subsection 5 of NRS 598.0971.

➥ This subsection does not authorize the Commissioner to disclose or make public the contents of any complaint described in paragraph (a) or the record of or any other information concerning a hearing conducted in relation to the issuance of an order to cease and desist described in paragraph (b).

4. *Whenever criminal or civil intelligence, investigative information or any other information held by any state or federal agency is made available to the Attorney General on a confidential or similarly restricted basis, the Attorney General, in the course of an investigation of any violation of this chapter, may obtain and use such intelligence or information. Any such intelligence or information received retains its confidential status under the laws of this State and is exempt from the provisions of NRS 239.010.*

5. The Commissioner may adopt regulations authorizing the disclosure of information concerning any complaint or number of complaints received by the Commissioner or Director relating to a person who has been convicted of violating a provision of NRS 598.0903 to 598.0999, inclusive.

Sec. 13. NRS 598A.060 is hereby amended to read as follows:

598A.060 1. Every activity enumerated in this subsection constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity *affecting commerce* in this State:

(a) Price fixing, which consists of raising, depressing, fixing, pegging or stabilizing the price of any commodity or service, and which includes, but is not limited to:

(1) Agreements among competitors to depress prices at which they will buy essential raw material for the end product.

(2) Agreements to establish prices for commodities or services.

(3) Agreements to establish uniform discounts, or to eliminate discounts.

(4) Agreements between manufacturers to price a premium commodity a specified amount above inferior commodities.

(5) Agreements not to sell below cost.

(6) Agreements to establish uniform trade-in allowances.

(7) Establishment of uniform cost surveys.

(8) Establishment of minimum markup percentages.

(9) Establishment of single or multiple basing point systems for determining the delivered price of commodities.

(10) Agreements not to advertise prices.

(11) Agreements among competitors to fix uniform list prices as a place to start bargaining.

(12) Bid rigging, including the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among

competitors, submission of identical bids, and submission of complementary bids not intended to secure acceptance by the customer.

(13) Agreements to discontinue a product, or agreements with anyone engaged in the manufacture of competitive lines to limit size, styles or quantities of items comprising the lines.

(14) Agreements to restrict volume of production.

(b) Division of markets, consisting of agreements between competitors to divide territories and to refrain from soliciting or selling in certain areas.

(c) Allocation of customers, consisting of agreements not to sell to specified customers of a competitor.

(d) Tying arrangements, consisting of contracts in which the seller or lessor conditions the sale or lease of commodities or services on the purchase or leasing of another commodity or service.

(e) Monopolization of trade or commerce in this State, including, without limitation, attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this State.

(f) Except as otherwise provided in subsection 2, consolidation, conversion, merger, acquisition of shares of stock or other equity interest, directly or indirectly, of another person engaged in commerce in this State or the acquisition of any assets of another person engaged in commerce in this State that may:

(1) Result in the monopolization of trade or commerce in this State or would further any attempt to monopolize trade or commerce in this State; or

(2) Substantially lessen competition or be in restraint of trade.

2. The provisions of paragraph (f) of subsection 1 do not:

(a) Apply to a person who, solely for an investment purpose, purchases stock or other equity interest or assets of another person if the purchaser does not use his acquisition to bring about or attempt to bring about the substantial lessening of competition in this State.

(b) Prevent a person who is engaged in commerce in this State from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.

Sec. 14. *NRS 598A.070 is hereby amended to read as follows:*

598A.070 1. The Attorney General shall:

(a) Enforce the provisions of this chapter.

(b) Investigate suspected violations of the provisions of this chapter.

(c) Institute proceedings on behalf of the State, its agencies, political subdivisions, districts or municipal corporations, or as parens patriae of the persons residing in the State for:

(1) Injunctive relief to prevent and restrain a violation of any provision of this chapter.

(2) Civil penalties for violations of the provisions of this chapter.

(3) Criminal penalties for violations of the provisions of this chapter.

(4) Other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

2. Any district attorney in this State, with the permission or at the direction of the Attorney General, shall institute proceedings in the name of the State of Nevada for any violation of the provisions of this chapter.

Sec. 15. *NRS 598A.080 is hereby amended to read as follows:*

598A.080 The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including , but not limited to , the *following:*

1. The sharing of information and evidence obtained in accordance with NRS 598A.100 [.] , *if the officials agree in writing to comply with the provisions of NRS 598A.110.*

2. The receipt of information and evidence by the Attorney General from the officials during an investigation of a violation of this chapter. If the information and evidence are provided on a confidential basis, that information and evidence are subject to the provisions of NRS 598A.110.

Sec. 16. *NRS 598A.090 is hereby amended to read as follows:*

598A.090 The district courts have jurisdiction over actions and proceedings for violations of the provisions of this chapter and may:

1. Issue temporary restraining orders and injunctions to prevent and restrain violations of the provisions of this chapter.

2. Impose civil and criminal penalties and award damages as provided in this chapter.

3. Grant mandatory injunctions reasonably necessary to eliminate practices which are unlawful under the provisions of this chapter.

4. Grant other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

Sec. 17. *NRS 598A.110 is hereby amended to read as follows:*

598A.110 *1.* Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS 598A.100 [shall] *is confidential and must* be kept confidential by the Attorney General , [prior to the institution of an action brought under this chapter for the alleged violation of the provisions of this chapter under investigation,] unless:

[1.] *(a)* Confidentiality is waived by the person upon whom the written investigative demand is made;

[2.] *(b)* Disclosure is authorized by the district court; [or

3. Disclosure]

(c) Subject to the provisions of subsection 2, disclosure is made pursuant to NRS 598A.080 [.] *; or*

(d) Disclosure is made pursuant to an action brought under this chapter or similar federal or state law.

2. Disclosure made pursuant to NRS 598A.080 does not change the confidentiality of the information and evidence.

Sec. 18. *NRS 598A.160 is hereby amended to read as follows:*

598A.160 1. The Attorney General may bring a civil action for any violation of the provisions of this chapter in the name of the State of Nevada and is entitled to recover damages and secure other relief provided by the provisions of this chapter:

(a) As parens patriae of the persons residing in this State, with respect to damages sustained directly or indirectly by such persons, or, alternatively, if the court finds in its discretion that the interests of justice so require, as a representative of a class or classes consisting of persons residing in this State who have been damaged directly or indirectly; ~~[or]~~

(b) As parens patriae, with respect to direct or indirect damages to the general economy of the State of Nevada or any political subdivision thereof ~~[.]~~ *; or*

(c) On behalf of or as parens patriae, with respect to direct or indirect damages of the State, its agencies, political subdivisions, districts or municipal corporations.

2. In any action under this section, this State:

(a) May recover *treble* the aggregate damage sustained by the persons on whose behalf this State sues, without separately proving the individual claims of each such person. Proof of such damages must be based on:

(1) Statistical or sampling methods;

(2) The pro rata allocation of illegal overcharges of sales occurring within the State of Nevada; or

(3) Such other reasonable system of estimating aggregate damages as the court may permit.

(b) Shall distribute, allocate or otherwise pay the amounts so recovered in accordance with state law, or in the absence of any applicable state law, as the district court may authorize, subject to the requirement that any distribution procedure adopted afford each person on whose behalf this State sues a reasonable opportunity individually to secure the pro rata portion of such recovery attributable to his or its respective claims for damages, less litigation and administrative costs, including attorney fees, before any of the recovery is escheated.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 321.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 158.

Bill read third time.

Roll call on Senate Bill No. 158:

YEAS—21.

NAYS—None.

Senate Bill No. 158 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 499.
Bill read third time.
Roll call on Senate Bill No. 499:
YEAS—21.
NAYS—None.

Senate Bill No. 499 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Amodei moved that Assembly Bill No. 13 be taken from the General File and placed on the General File for the next legislative day.
Remarks by Senator Amodei.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 42.
Bill read third time.
Roll call on Assembly Bill No. 42:
YEAS—21.
NAYS—None.

Assembly Bill No. 42 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 56.
Bill read third time.
Roll call on Assembly Bill No. 56:
YEAS—21.
NAYS—None.

Assembly Bill No. 56 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Amodei moved that Assembly Bill No. 115 be taken from the General File and placed on the General File for Friday, May 25, 2007.
Remarks by Senator Amodei.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 201.
Bill read third time.

Roll call on Assembly Bill No. 201:
YEAS—21.
NAYS—None.

Assembly Bill No. 201 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 215.
Bill read third time.
Roll call on Assembly Bill No. 215:
YEAS—21.
NAYS—None.

Assembly Bill No. 215 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 230.
Bill read third time.
Roll call on Assembly Bill No. 230:
YEAS—21.
NAYS—None.

Assembly Bill No. 230 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 235.
Bill read third time.
Roll call on Assembly Bill No. 235:
YEAS—21.
NAYS—None.

Assembly Bill No. 235 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 259.
Bill read third time.
Roll call on Assembly Bill No. 259:
YEAS—21.
NAYS—None.

Assembly Bill No. 259 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 352.
Bill read third time.
The following amendment was proposed by Senator Carlton:

Amendment No. 947.

"SUMMARY— ~~[Prohibits]~~ *Revises provisions governing* the issuance of certain work cards ~~[to persons who have been convicted of certain crimes.]~~ *for employment at certain kinds of dwelling units.* (BDR 10-708)"

"AN ACT relating to work cards; *making the issuance of a temporary work card for employment at certain kinds of dwelling units discretionary rather than mandatory;* prohibiting the issuance of work cards for *such* employment ~~[at certain kinds of dwelling units]~~ to persons who have been convicted of certain crimes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a landlord of dwelling units intended and operated exclusively for persons 55 years of age and older is prohibited from employing persons to perform certain work on the premises unless the person has obtained a work card from the county sheriff. (NRS 118A.335) This bill *: (1) makes the issuance of a temporary work card to an applicant who is being investigated discretionary rather than mandatory; and (2)* prohibits the sheriff from issuing ~~[such]~~ a work card to a person who has been convicted of certain crimes, including a category A, B or C felony or a similar crime in another state, a sexual offense, certain crimes against the elderly or other vulnerable persons, certain batteries, certain thefts or certain violations of state or federal drug laws. This bill further provides that a person who is denied a work card who believes the information provided to the sheriff by the Central Repository for Nevada Records of Criminal History is incorrect must be given an opportunity to correct the information.

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

Section 1. NRS 118A.335 is hereby amended to read as follows:

118A.335 1. Except as otherwise provided in subsection ~~[4,]~~ *5,* a landlord of dwelling units intended and operated exclusively for persons 55 years of age and older may not employ any person who will work 36 hours or more per week and who will have access to all dwelling units to perform work on the premises unless the person has obtained a work card issued pursuant to subsection 2 by the sheriff of the county in which the dwelling units are located and renewed that work card as necessary.

2. The sheriff of a county shall issue a work card to each person who is required by this section to obtain a work card and who complies with the requirements established by the sheriff for the issuance of such a card. A work card issued pursuant to this section must be renewed:

(a) Every 5 years; and

(b) Whenever the person changes his employment to perform work for an employer other than the employer for which his current work card was issued.

3. If the sheriff of a county requires an applicant for a work card to be investigated:

(a) The applicant must submit with his application a complete set of his fingerprints and written permission authorizing the sheriff to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(b) The sheriff ~~[may]~~ *shall* submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of the applicant.

(c) The sheriff ~~[shall]~~ *may* issue a temporary work card pending the determination of the criminal history of the applicant by the Federal Bureau of Investigation.

4. *The sheriff shall not issue a work card to any person who:*

(a) Has been convicted of a category A, B or C felony or of a crime in another state which would be a category A, B or C felony if committed in this State;

(b) Has been convicted of a sexual offense;

(c) Has been convicted of a crime against any person who is 60 years of age or older or against a vulnerable person for which an additional term of imprisonment may be imposed pursuant to NRS 193.167 or the laws of any other jurisdiction;

(d) Has been convicted of a battery punishable as a gross misdemeanor; or

(e) Within the immediately preceding 5 years:

(1) Has been convicted of a theft; or

(2) Has been convicted of a violation of any state or federal law regulating the possession, distribution or use of a controlled substance.

5. The following persons are not required to obtain a work card pursuant to this section:

(a) A person who holds a permit to engage in property management pursuant to chapter 645 of NRS.

(b) An independent contractor. As used in this paragraph, "independent contractor" means a person who performs services for a fixed price according to his own methods and without subjection to the supervision or control of the landlord, except as to the results of the work, and not as to the means by which the services are accomplished.

(c) An offender in the course and scope of his employment in a work program directed by the warden, sheriff, administrator or other person responsible for administering a prison, jail or other detention facility.

(d) A person performing work through a court-assigned restitution or community-service program.

6. If the sheriff does not issue a work card to a person because the information received from the Central Repository for Nevada Records of Criminal History indicates that the person has been convicted of a crime listed in subsection 4 and the person believes that the information provided by the Central Repository is incorrect, the person may immediately inform

the sheriff. If the sheriff is so informed, he shall give the person at least 30 days in which to correct the information before terminating the temporary work card issued pursuant to subsection 3.

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

(a) "Sexual offense" has the meaning ascribed to it in NRS 179D.410.

(b) "Vulnerable person" has the meaning ascribed to it in NRS 200.5092.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 359.

Bill read third time.

Roll call on Assembly Bill No. 359:

YEAS—20.

NAYS—None.

NOT VOTING—Horsford.

Assembly Bill No. 359 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bills Nos. 244, 391, 421, 493, 507, 512, 516, 533, 540, 549, 554, 562, 569, 570, 576, 585; Assembly Joint Resolutions Nos. 7, 9; Assembly Joint Resolution No. 16 of the of the of the 73rd Session be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 7, 72, 86, 118, 137, 139, 145, 183, 210, 264, 265, 282, 330, 336, 337, 338, 357, 369, 384, 389, 399; Senate Concurrent Resolution No. 18; Assembly Bills Nos. 1, 7, 49, 76, 94, 103, 122, 138, 190, 258, 289, 297, 298, 301, 311, 313, 323, 344, 350, 365, 415.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Beers, the privilege of the floor of the Senate Chamber for this day was extended to Candice Schneider.

On request of Senator Cegavske, the privilege of the floor of the Senate Chamber for this day was extended to Joan Lolmaugh.

On request of Senator Lee, the privilege of the floor of the Senate Chamber for this day was extended to Bob Ray, Gail Ray and the following students, chaperones and teachers from the Tartan Elementary School: Ian Belen,

Mindy Mendez, Herlinda Mendez, David Ortega, Christian Ward, Kaitlyn Compton, Megan Rydel, Krystyn Hernandez-Faria, Stephanie Rodriguez, Gaven Smith, Bryant Becerra, Jordan Rand, Kiera Smith, Toby Budd, Joyce McMillan, I'Jonea Rossum, JeCori Gladney, Aaron Saenz, Cynthia Figueroa, Jay-Marc Marsulit, Theodore McAllister, Taylor O'Daniel, Yasmin Breaux, Kailey Fox, Shaely Rensom, Keenan Raquel, Alaysia Drake Robinson, Jordan Franco, Earl Teopaco, Christian Cazares, Stephanie Munoz, Jordan Caron, Sean Harasti, Tameya Ducksworth, Taylor Hamilton, Adrian Fox, Cathy Hyde, Krystal Marshall, Shelby Smith, Xavier Prado, Tristan Jones, Hannah Ditzel, Miguel Landeros, Kayla Andrada, Andrew Harris, Jade Roldan, Raymond Ruano, Lynette Itson, Alexis Zurfluh, Gabby Barajas; chaperones: Christian Ward Sr., Lorna Iverson, Garilyne Hernandez, Blaire Smith, Larry O'Damiel, Tracy Breaux, Krissy Walker, Lynne Rensome, Amy Drake, Suzanne Kerrigan, Lorainna Cazares, Hannah Fox, Dennis Miller, Gretchen Pedersen, Fredrica Roldan, Parthy Zurfluh; teachers: Ariane Steffan, Lee Braegger, Jud Braegger, Nicole Graham, Michele Bacon, Stephanie Dalrymple and Jeff Dalrymple.

On request of Senator Nolan, the privilege of the floor of the Senate Chamber for this day was extended to Chaz Cirame.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to Carol Johnson.

Senator Raggio moved that the Senate adjourn until Thursday, May 24, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 4:30 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate